

104TH CONGRESS  
2D SESSION

# H. R. 3604

To amend title XIV of the Public Health Service Act (the “Safe Drinking Water Act”), and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 1996

Mr. BLILEY (for himself, Mr. DINGELL, Mr. BILIRAKIS, Mr. WAXMAN, Mr. MOORHEAD, Mr. BRYANT of Texas, Mr. OXLEY, Mr. TOWNS, Mr. SCHAEFER, Mr. STUDDS, Mr. UPTON, Mr. PALLONE, Mr. FRANKS of Connecticut, Mrs. LINCOLN, Mr. GREENWOOD, Mr. DEUTSCH, Mr. CRAPO, Mr. RUSH, Mr. DEAL of Georgia, Ms. FURSE, Mr. BILBRAY, Mr. STUPAK, Mr. WHITFIELD, Mr. MANTON, Mr. GANSKE, Mr. RICHARDSON, Mr. GORDON, and Mr. MARKEY) introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To amend title XIV of the Public Health Service Act (the “Safe Drinking Water Act”), and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Safe Drinking Water Act Amendments of 1996”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

Sec. 2. References; effective date; disclaimer.

## TITLE I—PUBLIC WATER SYSTEMS

### Subtitle A—Promulgation of National Primary Drinking Water Regulations

- Sec. 101. Selection of additional contaminants.
- Sec. 102. Disinfectants and disinfection byproducts.
- Sec. 103. Limited alternative to filtration.
- Sec. 104. Standard-setting.
- Sec. 105. Ground water disinfection.
- Sec. 106. Effective date for regulations.
- Sec. 107. Risk assessment, management, and communication.
- Sec. 108. Radon, arsenic, and sulfate.
- Sec. 109. Urgent threats to public health.
- Sec. 110. Recycling of filter backwash.
- Sec. 111. Treatment technologies for small systems.

### Subtitle B—State Primary Enforcement Responsibility for Public Water Systems

- Sec. 121. State primacy.

### Subtitle C—Notification and Enforcement

- Sec. 131. Public notification.
- Sec. 132. Enforcement.
- Sec. 133. Judicial review.

### Subtitle D—Exemptions and Variances

- Sec. 141. Exemptions.
- Sec. 142. Variances.

### Subtitle E—Lead Plumbing and Pipes

- Sec. 151. Lead plumbing and pipes.

### Subtitle F—Capacity Development

- Sec. 161. Capacity development.

## TITLE II—AMENDMENTS TO PART C

- Sec. 201. Source water quality assessment.
- Sec. 202. Federal facilities.

## TITLE III—GENERAL PROVISIONS REGARDING SAFE DRINKING WATER ACT

- Sec. 301. Operator certification.
- Sec. 302. Technical assistance.
- Sec. 303. Public water system supervision program.
- Sec. 304. Monitoring and information gathering.
- Sec. 305. Occurrence data base.
- Sec. 306. Citizens suits.
- Sec. 307. Whistle blower.
- Sec. 308. State revolving funds.
- Sec. 309. Water conservation plan.

## TITLE IV—MISCELLANEOUS

- Sec. 401. Definitions.

Sec. 402. Authorization of appropriations.  
 Sec. 403. New York City watershed protection program.  
 Sec. 404. Estrogenic substances screening program.  
 Sec. 405. Reports on programs administered directly by Environmental Protection Agency.  
 Sec. 406. Return flows.  
 Sec. 407. Emergency powers.  
 Sec. 408. Waterborne disease occurrence study.  
 Sec. 409. Drinking water studies.  
 Sec. 410. Bottled drinking water standards.  
 Sec. 411. Clerical amendments.

**1 SEC. 2. REFERENCES; EFFECTIVE DATE; DISCLAIMER.**

**2 (a) REFERENCES TO SAFE DRINKING WATER ACT.—**

**3** Except as otherwise expressly provided, whenever in this  
**4** Act an amendment or repeal is expressed in terms of an  
**5** amendment to, or repeal of, a section or other provision,  
**6** the reference shall be considered to be made to that sec-  
**7** tion or other provision of title XIV of the Public Health  
**8** Service Act (commonly known as the Safe Drinking Water  
**9** Act, 42 U.S.C. 300f et seq.).

**10 (b) EFFECTIVE DATE.—**Except as otherwise speci-  
**11** fied in this Act or in the amendments made by this Act,  
**12** this Act and the amendments made by this Act shall take  
**13** effect on the date of enactment of this Act.

**14 (c) DISCLAIMER.—**Nothing in this Act or in any  
**15** amendments made by this Act to title XIV of the Public  
**16** Health Service Act (commonly known as the Safe Drink-  
**17** ing Water Act) or any other law shall be construed by  
**18** the Administrator of the Environmental Protection Agen-  
**19** cy or the courts as affecting, modifying, expanding, chang-  
**20** ing, or altering—

1 (1) the provisions of the Federal Water Pollu-  
 2 tion Control Act;

3 (2) the duties and responsibilities of the Admin-  
 4 istrator under that Act; or

5 (3) the regulation or control of point or  
 6 nonpoint sources of pollution discharged into waters  
 7 covered by that Act.

8 The Administrator shall identify in the agency's annual  
 9 budget all funding and full-time equivalents administering  
 10 such title XIV separately from funding and staffing for  
 11 the Federal Water Pollution Control Act.

12 **TITLE I—PUBLIC WATER**  
 13 **SYSTEMS**  
 14 **Subtitle A—Promulgation of Na-**  
 15 **tional Primary Drinking Water**  
 16 **Regulations**

17 **SEC. 101. SELECTION OF ADDITIONAL CONTAMINANTS.**

18 (a) IN GENERAL.—Section 1412(b)(3) (42 U.S.C.  
 19 300g–1(b)(3)) is amended to read as follows:

20 “(3) REGULATION OF UNREGULATED CONTAMI-  
 21 NANTS.—

22 “(A) LISTING OF CONTAMINANTS FOR CONSID-  
 23 ERATION.—(i) Not later than 18 months after the  
 24 date of the enactment of the Safe Drinking Water  
 25 Act Amendments of 1996 and every 5 years there-

1 after, the Administrator, after consultation with the  
2 scientific community, including the Science Advisory  
3 Board, after notice and opportunity for public com-  
4 ment, and after considering the occurrence data base  
5 established under section 1445(g), shall publish a  
6 list of contaminants which, at the time of publica-  
7 tion, are not subject to any proposed or promulgated  
8 national primary drinking water regulation, which  
9 are known or anticipated to occur in public water  
10 systems, and which may require regulation under  
11 this title.

12 “(ii) The unregulated contaminants considered  
13 under clause (i) shall include, but not be limited to,  
14 substances referred to in section 101(14) of the  
15 Comprehensive Environmental Response Compensa-  
16 tion and Liability Act of 1980, and substances reg-  
17 istered as pesticides under the Federal Insecticide,  
18 Fungicide, and Rodenticide Act.

19 “(iii) The Administrator’s decision whether or  
20 not to select an unregulated contaminant for a list  
21 under this subparagraph shall not be subject to judi-  
22 cial review.

23 “(B) DETERMINATION TO REGULATE.—(i) Not  
24 later than 5 years after the date of the enactment  
25 of the Safe Drinking Water Act Amendments of

1 1996, and every 5 years thereafter, the Adminis-  
2 trator shall, by rule, for not fewer than 5 contami-  
3 nants included on the list published under subpara-  
4 graph (A), make determinations of whether or not to  
5 regulate such contaminants.

6 “(ii) A determination to regulate a contaminant  
7 shall be based on findings that—

8 “(I) the contaminant is known to occur or  
9 there is a substantial likelihood that the con-  
10 taminant will occur in public water systems  
11 with a frequency and at a level of public health  
12 concern; and

13 “(II) regulation of such contaminant pre-  
14 sents a meaningful opportunity for public  
15 health risk reduction for persons served by pub-  
16 lic water systems.

17 Such findings shall be based on the best available  
18 public health information, including the occurrence  
19 data base established under section 1445(g).

20 “(iii) The Administrator may make a deter-  
21 mination to regulate a contaminant that does not  
22 appear on a list under subparagraph (A) if the de-  
23 termination to regulate is made pursuant to clause  
24 (ii).

1           “(iv) A determination under this subparagraph  
2           not to regulate a contaminant shall be considered  
3           final agency action and subject to judicial review.

4           “(C) PRIORITIES.—In selecting unregulated  
5           contaminants for consideration under subparagraph  
6           (B), the Administrator shall select contaminants  
7           that present the greatest public health concern. The  
8           Administrator, in making such selection, shall take  
9           into consideration, among other factors of public  
10          health concern, the effect of such contaminants upon  
11          subgroups that comprise a meaningful portion of the  
12          general population (such as infants, children, preg-  
13          nant women, the elderly, individuals with a history  
14          of serious illness, or other subpopulations) that are  
15          identifiable as being at greater risk of adverse health  
16          effects due to exposure to contaminants in drinking  
17          water than the general population.

18          “(D) REGULATION.—For each contaminant  
19          that the Administrator determines to regulate under  
20          subparagraph (B), the Administrator shall promul-  
21          gate, by rule, maximum contaminant level goals and  
22          national primary drinking water regulations under  
23          this subsection. The Administrator shall propose the  
24          maximum contaminant level goal and national pri-  
25          mary drinking water regulation not later than 24

1 months after the determination to regulate under  
2 subparagraph (B), and may publish such proposed  
3 regulation concurrent with the determination to reg-  
4 ulate. The Administrator shall promulgate a maxi-  
5 mum contaminant level goal and national primary  
6 drinking water regulation within 18 months after  
7 the proposal thereof. The Administrator, by notice  
8 in the Federal Register, may extend the deadline for  
9 such promulgation for up to 9 months.

10 “(E) HEALTH ADVISORIES AND OTHER AC-  
11 TIONS.—The Administrator may publish health  
12 advisories (which are not regulations) or take other  
13 appropriate actions for contaminants not subject to  
14 any national primary drinking water regulation.”.

15 (b) APPLICABILITY OF PRIOR REQUIREMENTS.—The  
16 requirements of subparagraphs (C) and (D) of section  
17 1412(b)(3) of title XIV of the Public Health Service Act  
18 (commonly known as the Safe Drinking Water Act) as in  
19 effect before the enactment of this Act, and any obligation  
20 to promulgate regulations pursuant to such subpara-  
21 graphs not promulgated as of the date of enactment of  
22 this Act, are superseded by the amendments made by sub-  
23 section (a) to such subparagraphs (C) and (D).



1 **SEC. 102. DISINFECTANTS AND DISINFECTION BYPROD-**  
2 **UCTS.**

3 Section 1412(b)(3) (42 U.S.C. 300g-1(b)(3)) is  
4 amended by adding at the end the following subparagraph:

5 “(F) DISINFECTANTS AND DISINFECTION BY-  
6 PRODUCTS.—

7 “(i) INFORMATION COLLECTION RULE.—

8 Not later than December 31, 1996, the Admin-  
9 istrator shall, after notice and opportunity for  
10 public comment, promulgate an information col-  
11 lection rule to obtain information that will fa-  
12 cilitate further revisions to the national primary  
13 drinking water regulation for disinfectants and  
14 disinfection byproducts, including information  
15 on microbial contaminants such as  
16 cryptosporidium. The Administrator may extend  
17 the December 31, 1996, deadline under this  
18 clause for up to 180 days if the Administrator  
19 determines that progress toward approval of an  
20 appropriate analytical method to screen for  
21 cryptosporidium is sufficiently advanced and  
22 approval is likely to be completed within the ad-  
23 ditional time period.

24 “(ii) ADDITIONAL DEADLINES.—The time  
25 intervals between promulgation of a final infor-  
26 mation collection rule, an Interim Enhanced

1 Surface Water Treatment Rule, a Final En-  
2 hanced Surface Water Treatment Rule, a Stage  
3 I Disinfectants and Disinfection Byproducts  
4 Rule, and a Stage II Disinfectants and Dis-  
5 infection Byproducts Rule shall be in accord-  
6 ance with the schedule published in volume 59,  
7 Federal Register, page 6361 (February 10,  
8 1994), in table III.13 of the proposed Informa-  
9 tion Collection Rule. If a delay occurs with re-  
10 spect to the promulgation of any rule in the  
11 timetable established by this subparagraph, all  
12 subsequent rules shall be completed as expedi-  
13 tiously as practicable but no later than a re-  
14 vised date that reflects the interval or intervals  
15 for the rules in the timetable.”.

16 **SEC. 103. LIMITED ALTERNATIVE TO FILTRATION.**

17 Section 1412(b)(7)(C) (42 U.S.C. 300g-1(b)(7)(C))  
18 is amended by adding at the end the following clause:

19 “(v) As an additional alternative to the regulations  
20 promulgated pursuant to clauses (i) and (iii), including the  
21 criteria for avoiding filtration contained in 40 CFR  
22 141.71, a State exercising primary enforcement respon-  
23 sibility for public water systems may establish, on a case-  
24 by-case basis and after notice and an opportunity of at  
25 least 90 days for public comment, alternatives to filtration

1 requirements in effect on the date of enactment of this  
 2 clause, in the case of systems having uninhabited, undevel-  
 3 oped watersheds in consolidated ownership, and having  
 4 control over access to, and activities in, those watersheds  
 5 if (taking into consideration the effects of wildlife in such  
 6 watersheds) the State determines (and the Administrator  
 7 concurs) that the public health will be fully protected by  
 8 such alternatives consistent with the requirements of this  
 9 title. The authority of a State to establish alternatives  
 10 under this clause shall expire 3 years after the enactment  
 11 of the Safe Drinking Water Act Amendments of 1996.”.

12 **SEC. 104. STANDARD-SETTING.**

13 (a) IN GENERAL.—Section 1412(b) (42 U.S.C.  
 14 300g–1(b)) is amended as follows:

15 (1) In paragraph (4)—

16 (A) by striking “(4) Each” and inserting  
 17 the following:

18 “(4) GOALS AND STANDARDS.—

19 “(A) MAXIMUM CONTAMINANT LEVEL  
 20 GOALS.—Each”;

21 (B) in the last sentence—

22 (i) by striking “Each national” and  
 23 inserting the following:

1 “(B) MAXIMUM CONTAMINANT LEVELS.—

2 Except as provided in paragraphs (5) and (6),  
3 each national”; and

4 (ii) by striking “maximum level” and  
5 inserting “maximum contaminant level”;  
6 and

7 (C) by adding at the end the following:

8 “(C) DETERMINATION.—At the time the  
9 Administrator proposes a national primary  
10 drinking water regulation under this paragraph,  
11 the Administrator shall publish a determination  
12 as to whether the benefits of the maximum con-  
13 taminant level justify, or do not justify, the  
14 costs based on the analysis conducted under  
15 paragraph (12)(C).”.

16 (2) By striking “(5) For the” and inserting the  
17 following:

18 “(D) DEFINITION OF FEASIBLE.—For  
19 the”.

20 (3) In the second sentence of paragraph (4)(D)  
21 (as so designated), by striking “paragraph (4)” and  
22 inserting “this paragraph”.

23 (4) By striking “(6) Each national” and insert-  
24 ing the following:

25 “(E) FEASIBLE TECHNOLOGIES.—

1 “(i) Each national”.

2 (5) In paragraph (4)(E)(i) (as so designated),  
3 by striking “this paragraph” and inserting “this  
4 subsection”.

5 (6) By inserting after paragraph (4) (as so  
6 amended) the following:

7 “(5) ADDITIONAL HEALTH RISK CONSIDER-  
8 ATIONS.—

9 “(A) IN GENERAL.—Notwithstanding para-  
10 graph (4), the Administrator may establish a  
11 maximum contaminant level for a contaminant  
12 at a level other than the feasible level, if the  
13 technology, treatment techniques, and other  
14 means used to determine the feasible level  
15 would result in an increase in the health risk  
16 from drinking water by—

17 “(i) increasing the concentration of  
18 other contaminants in drinking water; or

19 “(ii) interfering with the efficacy of  
20 drinking water treatment techniques or  
21 processes that are used to comply with  
22 other national primary drinking water reg-  
23 ulations.

24 “(B) ESTABLISHMENT OF LEVEL.—If the  
25 Administrator establishes a maximum contami-

1           nant level or levels or requires the use of treat-  
2           ment techniques for any contaminant or con-  
3           taminants pursuant to the authority of this  
4           paragraph—

5                   “(i) the level or levels or treatment  
6                   techniques shall minimize the overall risk  
7                   of adverse health effects by balancing the  
8                   risk from the contaminant and the risk  
9                   from other contaminants the concentra-  
10                  tions of which may be affected by the use  
11                  of a treatment technique or process that  
12                  would be employed to attain the maximum  
13                  contaminant level or levels; and

14                  “(ii) the combination of technology,  
15                  treatment techniques, or other means re-  
16                  quired to meet the level or levels shall not  
17                  be more stringent than is feasible (as de-  
18                  fined in paragraph (4)(D)).

19           “(6) ADDITIONAL HEALTH RISK REDUCTION  
20           AND COST CONSIDERATIONS.—

21                   “(A) IN GENERAL.—Notwithstanding para-  
22                   graph (4), if the Administrator determines  
23                   based on an analysis conducted under para-  
24                   graph (12)(C) that the benefits of a maximum  
25                   contaminant level promulgated in accordance

1 with paragraph (4) would not justify the costs  
2 of complying with the level, the Administrator  
3 may, after notice and opportunity for public  
4 comment, promulgate a maximum contaminant  
5 level for the contaminant that maximizes health  
6 risk reduction benefits at a cost that is justified  
7 by the benefits.

8 “(B) EXCEPTION.—The Administrator  
9 shall not use the authority of this paragraph to  
10 promulgate a maximum contaminant level for a  
11 contaminant, if the benefits of compliance with  
12 a national primary drinking water regulation  
13 for the contaminant that would be promulgated  
14 in accordance with paragraph (4) experienced  
15 by—

16 “(i) persons served by large public  
17 water systems; and

18 “(ii) persons served by such other sys-  
19 tems as are unlikely, based on information  
20 provided by the States, to receive a vari-  
21 ance under section 1415(e) (relating to  
22 small system assistance program);

23 would justify the costs to the systems of com-  
24 plying with the regulation. This subparagraph  
25 shall not apply if the contaminant is found al-

1 most exclusively in small systems (as defined in  
2 section 1415(e), relating to small system assist-  
3 ance program).

4 “(C) DISINFECTANTS AND DISINFECTION  
5 BYPRODUCTS.—The Administrator may not use  
6 the authority of this paragraph to establish a  
7 maximum contaminant level in a Stage I or  
8 Stage II national primary drinking water regu-  
9 lation for contaminants that are disinfectants  
10 or disinfection byproducts (as described in para-  
11 graph (3)(F)), or to establish a maximum con-  
12 taminant level or treatment technique require-  
13 ment for the control of cryptosporidium. The  
14 authority of this paragraph may be used to es-  
15 tablish regulations for the use of disinfection by  
16 systems relying on ground water sources as re-  
17 quired by paragraph (8).

18 “(D) JUDICIAL REVIEW.—A determination  
19 by the Administrator that the benefits of a  
20 maximum contaminant level or treatment re-  
21 quirement justify or do not justify the costs of  
22 complying with the level shall be reviewed by  
23 the court pursuant to section 1448 only as part  
24 of a review of a final national primary drinking  
25 water regulation that has been promulgated



1           based on the determination and shall not be set  
2           aside by the court under that section unless the  
3           court finds that the determination is arbitrary  
4           and capricious.”.

5           (b) DISINFECTANTS AND DISINFECTION BYPROD-  
6 UCTS.—The Administrator of the Environmental Protec-  
7 tion Agency may use the authority of section 1412(b)(5)  
8 of the Public Health Service Act (as amended by sub-  
9 section (a)) to promulgate the Stage I and Stage II rules  
10 for disinfectants and disinfection byproducts as proposed  
11 in volume 59, Federal Register, page 38668 (July 29,  
12 1994). The considerations used in the development of the  
13 July 29, 1994, proposed national primary drinking water  
14 regulation on Disinfection and Disinfection Byproducts  
15 shall be treated as consistent with such section 1412(b)(5)  
16 for purposes of such Stage I and Stage II rules.

17           (c) REVIEW OF STANDARDS.—Section 1412(b)(9)  
18 (42 U.S.C. 300g–1(b)) is amended to read as follows:

19           “(9) REVIEW AND REVISION.—The Adminis-  
20 trator shall, not less often than every 6 years, review  
21 and revise, as appropriate, each national primary  
22 drinking water regulation promulgated under this  
23 title. Any revision of a national primary drinking  
24 water regulation shall be promulgated in accordance  
25 with this section, except that each revision shall

1 maintain, or provide for greater, protection of the  
2 health of persons.”.

3 **SEC. 105. GROUND WATER DISINFECTION.**

4 Section 1412(b)(8) (42 U.S.C. 300g–1(b)(8)) is  
5 amended by striking the first sentence and inserting the  
6 following: “At any time after the end of the 3-year period  
7 that begins on the date of enactment of the Safe Drinking  
8 Water Act Amendments of 1996, but not later than the  
9 date on which the Administrator promulgates a Stage II  
10 rulemaking for disinfectants and disinfection byproducts  
11 (as described in paragraph (3)(F)(ii)), the Administrator  
12 shall also promulgate national primary drinking water reg-  
13 ulations requiring disinfection as a treatment technique  
14 for all public water systems, including surface water sys-  
15 tems and, as necessary, ground water systems. After con-  
16 sultation with the States, the Administrator shall (as part  
17 of the regulations) promulgate criteria that the Adminis-  
18 trator, or a State that has primary enforcement respon-  
19 sibility under section 1413, shall apply to determine  
20 whether disinfection shall be required as a treatment tech-  
21 nique for any public water system served by ground water.  
22 A State that has primary enforcement authority shall de-  
23 velop a plan through which ground water disinfection de-  
24 terminations are made. The plan shall be based on the

1 Administrator's criteria and shall be submitted to the Ad-  
2 ministrator for approval.”.

3 **SEC. 106. EFFECTIVE DATE FOR REGULATIONS.**

4 Section 1412(b)(10) (42 U.S.C. 300g–1(b)(10)) is  
5 amended to read as follows:

6 “(10) EFFECTIVE DATE.—A national primary  
7 drinking water regulation promulgated under this  
8 section (and any amendment thereto) shall take ef-  
9 fect on the date that is 3 years after the date on  
10 which the regulation is promulgated unless the Ad-  
11 ministrator determines that an earlier date is prac-  
12 ticable, except that the Administrator, or a State (in  
13 the case of an individual system), may allow up to  
14 2 additional years to comply with a maximum con-  
15 taminant level or treatment technique if the Admin-  
16 istrator or State (in the case of an individual sys-  
17 tem) determines that additional time is necessary for  
18 capital improvements.”.

19 **SEC. 107. RISK ASSESSMENT, MANAGEMENT, AND COMMU-  
20 NICATION.**

21 Section 1412(b) (42 U.S.C. 300g–1(b)) is amended  
22 by inserting after paragraph (11) the following:

23 “(12) RISK ASSESSMENT, MANAGEMENT AND  
24 COMMUNICATION.—

1           “(A) USE OF SCIENCE IN DECISIONMAK-  
2           ING.—In carrying out this section, and, to the  
3           degree that an Agency action is based on  
4           science in carrying out this title, the Adminis-  
5           trator shall use—

6                   “(i) the best available, peer-reviewed  
7                   science and supporting studies conducted  
8                   in accordance with sound and objective sci-  
9                   entific practices; and

10                   “(ii) data collected by accepted meth-  
11                   ods or best available methods (if the reli-  
12                   ability of the method and the nature of the  
13                   decision justifies use of the data).

14           “(B) PUBLIC INFORMATION.—In carrying  
15           out this section, the Administrator shall ensure  
16           that the presentation of information on public  
17           health effects is comprehensive, informative and  
18           understandable. The Administrator shall, in a  
19           document made available to the public in sup-  
20           port of a regulation promulgated under this sec-  
21           tion, specify, to the extent practicable—

22                   “(i) each population addressed by any  
23                   estimate of public health effects;

24                   “(ii) the expected risk or central esti-  
25                   mate of risk for the specific populations;

1 “(iii) each appropriate upper-bound or  
2 lower-bound estimate of risk;

3 “(iv) each significant uncertainty  
4 identified in the process of the assessment  
5 of public health effects and studies that  
6 would assist in resolving the uncertainty;  
7 and

8 “(v) peer-reviewed studies known to  
9 the Administrator that support, are di-  
10 rectly relevant to, or fail to support any es-  
11 timate of public health effects and the  
12 methodology used to reconcile inconsist-  
13 encies in the scientific data.

14 “(C) HEALTH RISK REDUCTION AND COST  
15 ANALYSIS.—

16 “(i) MAXIMUM CONTAMINANT LEV-  
17 ELS.—When proposing any national pri-  
18 mary drinking water regulation that in-  
19 cludes a maximum contaminant level, the  
20 Administrator shall, with respect to a max-  
21 imum contaminant level that is being con-  
22 sidered in accordance with paragraph (4)  
23 and each alternative maximum contami-  
24 nant level that is being considered pursu-  
25 ant to paragraph (5) or (6)(A), publish,

1 seek public comment on, and use for the  
2 purposes of paragraphs (4), (5), and (6)  
3 an analysis of—

4 “(I) Quantifiable and nonquan-  
5 tifiable health risk reduction benefits  
6 for which there is a factual basis in  
7 the rulemaking record to conclude  
8 that such benefits are likely to occur  
9 as the result of treatment to comply  
10 with each level.

11 “(II) Quantifiable and nonquan-  
12 tifiable health risk reduction benefits  
13 for which there is a factual basis in  
14 the rulemaking record to conclude  
15 that such benefits are likely to occur  
16 from reductions in co-occurring con-  
17 taminants that may be attributed  
18 solely to compliance with the maxi-  
19 mum contaminant level, excluding  
20 benefits resulting from compliance  
21 with other proposed or promulgated  
22 regulations.

23 “(III) Quantifiable and nonquan-  
24 tifiable costs for which there is a fac-  
25 tual basis in the rulemaking record to

1 conclude that such costs are likely to  
2 occur solely as a result of compliance  
3 with the maximum contaminant level,  
4 including monitoring, treatment, and  
5 other costs and excluding costs result-  
6 ing from compliance with other pro-  
7 posed or promulgated regulations.

8 “(IV) The incremental costs and  
9 benefits associated with each alter-  
10 native maximum contaminant level  
11 considered.

12 “(V) The effects of the contami-  
13 nant on the general population and on  
14 groups within the general population  
15 such as infants, children, pregnant  
16 women, the elderly, individuals with a  
17 history of serious illness, or other sub-  
18 populations that are identified as like-  
19 ly to be at greater risk of adverse  
20 health effects due to exposure to con-  
21 taminants in drinking water than the  
22 general population.

23 “(VI) Any increased health risk  
24 that may occur as the result of com-

1                   pliance, including risks associated  
2                   with co-occurring contaminants.

3                   “(VII) Other relevant factors, in-  
4                   cluding the quality and extent of the  
5                   information, the uncertainties in the  
6                   analysis supporting subclauses (I)  
7                   through (VI), and factors with respect  
8                   to the degree and nature of the risk.

9                   “(ii) TREATMENT TECHNIQUES.—

10                  When proposing a national primary drink-  
11                  ing water regulation that includes a treat-  
12                  ment technique in accordance with para-  
13                  graph (7)(A), the Administrator shall pub-  
14                  lish and seek public comment on an analy-  
15                  sis of the health risk reduction benefits  
16                  and costs likely to be experienced as the  
17                  result of compliance with the treatment  
18                  technique and alternative treatment tech-  
19                  niques that are being considered, taking  
20                  into account, as appropriate, the factors  
21                  described in clause (i).

22                  “(iii) APPROACHES TO MEASURE AND  
23                  VALUE BENEFITS.—The Administrator  
24                  may identify valid approaches for the  
25                  measurement and valuation of benefits



1 under this subparagraph, including ap-  
2 proaches to identify consumer willingness  
3 to pay for reductions in health risks from  
4 drinking water contaminants.

5 “(iv) AUTHORIZATION.—There are  
6 authorized to be appropriated to the Ad-  
7 ministrator, acting through the Office of  
8 Ground Water and Drinking Water, to  
9 conduct studies, assessments, and analyses  
10 in support of regulations or the develop-  
11 ment of methods, \$35,000,000 for each of  
12 fiscal years 1996 through 2003.”.

13 **SEC. 108. RADON, ARSENIC, AND SULFATE.**

14 Section 1412(b) is amended by inserting after para-  
15 graph (12) the following:

16 “(13) CERTAIN CONTAMINANTS.—

17 “(A) RADON.—Any proposal published by  
18 the Administrator before the enactment of the  
19 Safe Drinking Water Act Amendments of 1996  
20 to establish a national primary drinking water  
21 standard for radon shall be withdrawn by the  
22 Administrator. Notwithstanding any provision  
23 of any law enacted prior to the enactment of  
24 the Safe Drinking Water Act Amendments of  
25 1996, within 3 years of such date of enactment,

1 the Administrator shall propose and promulgate  
2 a national primary drinking water regulation  
3 for radon under this section, as amended by the  
4 Safe Drinking Water Act Amendments of 1996.  
5 In undertaking any risk analysis and benefit  
6 cost analysis in connection with the promulga-  
7 tion of such standard, the Administrator shall  
8 take into account the costs and benefits of con-  
9 trol programs for radon from other sources.

10 “(B) ARSENIC.—(i) Notwithstanding the  
11 deadlines set forth in paragraph (1), the Ad-  
12 ministrator shall promulgate a national primary  
13 drinking water regulation for arsenic pursuant  
14 to this subsection, in accordance with the sched-  
15 ule established by this paragraph.

16 “(ii) Not later than 180 days after the  
17 date of enactment of this paragraph, the Ad-  
18 ministrator shall develop a comprehensive plan  
19 for study in support of drinking water rule-  
20 making to reduce the uncertainty in assessing  
21 health risks associated with exposure to low lev-  
22 els of arsenic. In conducting such study, the  
23 Administrator shall consult with the National  
24 Academy of Sciences, other Federal agencies,  
25 and interested public and private entities.

1           “(iii) In carrying out the study plan, the  
2 Administrator may enter into cooperative agree-  
3 ments with other Federal agencies, State and  
4 local governments, and other interested public  
5 and private entities.

6           “(iv) PROPOSED REGULATION.—The Ad-  
7 ministrator shall propose a national primary  
8 drinking water regulation for arsenic not later  
9 than January 1, 2000.

10           “(v) FINAL REGULATION.—Not later than  
11 January 1, 2001, after notice and opportunity  
12 for public comment, the Administrator shall  
13 promulgate a national primary drinking water  
14 regulation for arsenic.

15           “(C) SULFATE.—

16           “(i) ADDITIONAL STUDY.—Prior to  
17 promulgating a national primary drinking  
18 water regulation for sulfate, the Adminis-  
19 trator and the Director of the Centers for  
20 Disease Control and Prevention shall joint-  
21 ly conduct an additional study to establish  
22 a reliable dose-response relationship for the  
23 adverse human health effects that may re-  
24 sult from exposure to sulfate in drinking  
25 water, including the health effects that

1 may be experienced by groups within the  
2 general population (including infants and  
3 travelers) that are potentially at greater  
4 risk of adverse health effects as the result  
5 of such exposure. The study shall be con-  
6 ducted in consultation with interested  
7 States, shall be based on the best available,  
8 peer-reviewed science and supporting stud-  
9 ies conducted in accordance with sound  
10 and objective scientific practices.

11 “(ii) PROPOSED AND FINAL RULE.—  
12 Notwithstanding the deadlines set forth in  
13 paragraph (1), the Administrator may,  
14 pursuant to the authorities of this sub-  
15 section and after notice and opportunity  
16 for public comment, promulgate a final na-  
17 tional primary drinking water regulation  
18 for sulfate. Any such regulation shall in-  
19 clude requirements for public notification  
20 and options for the provision of alternative  
21 water supplies to populations at risk as a  
22 means of complying with the regulation in  
23 lieu of a best available treatment tech-  
24 nology or other means.”.

1 **SEC. 109. URGENT THREATS TO PUBLIC HEALTH.**

2 Section 1412(b) is amended by inserting the following  
3 after paragraph (13):

4 “(14) URGENT THREATS TO PUBLIC  
5 HEALTH.—The Administrator may promulgate an  
6 interim national primary drinking water regulation  
7 for a contaminant without making a determination  
8 for the contaminant under paragraph (4)(C) or com-  
9 pleting the analysis under paragraph (12)(C) to ad-  
10 dress an urgent threat to public health as deter-  
11 mined by the Administrator after consultation with  
12 and written response to any comments provided by  
13 the Secretary of Health and Human Services, acting  
14 through the director of the Centers for Disease Con-  
15 trol and Prevention or the director of the National  
16 Institutes of Health. A determination for any con-  
17 taminant in accordance with paragraph (4)(C) sub-  
18 ject to an interim regulation under this subpara-  
19 graph shall be issued, and a completed analysis  
20 meeting the requirements of paragraph (12)(C) shall  
21 be published, not later than 3 years after the date  
22 on which the regulation is promulgated and the reg-  
23 ulation shall be repromulgated, or revised if appro-  
24 priate, not later than 5 years after that date.”.

1 **SEC. 110. RECYCLING OF FILTER BACKWASH.**

2 Section 1412(b) is amended by adding the following  
3 new paragraph after paragraph (14):

4 “(15) RECYCLING OF FILTER BACKWASH.—

5 The Administrator shall promulgate a regulation to  
6 govern the recycling of filter backwash water within  
7 the treatment process of a public water system. The  
8 Administrator shall promulgate such regulation not  
9 later than 4 years after the date of the enactment  
10 of the Safe Drinking Water Act Amendments of  
11 1996 unless such recycling has been addressed by  
12 the Administrator’s ‘enhanced surface water treat-  
13 ment rule’ prior to such date.”.

14 **SEC. 111. TREATMENT TECHNOLOGIES FOR SMALL SYS-**  
15 **TEMS.**

16 (a) LIST OF TECHNOLOGIES FOR SMALL SYSTEMS.—  
17 Section 1412(b)(4)(E) (42 U.S.C. 300g–1(b)(4)(E)), is  
18 amended by adding at the end the following:

19 “(ii) The Administrator shall include  
20 in the list any technology, treatment tech-  
21 nique, or other means that is affordable for  
22 small public water systems serving—

23 “(I) a population of 10,000 or  
24 fewer but more than 3,300;

25 “(II) a population of 3,300 or  
26 fewer but more than 500; and

1                   “(III) a population of 500 or  
2                   fewer but more than 25;  
3                   and that achieves compliance with the  
4                   maximum contaminant level or treatment  
5                   technique, including packaged or modular  
6                   systems and point-of-entry or point-of-use  
7                   treatment units. Point-of-entry and point-  
8                   of-use treatment units shall be owned, con-  
9                   trolled and maintained by the public water  
10                  system or by a person under contract with  
11                  the public water system to ensure proper  
12                  operation and maintenance and compliance  
13                  with the maximum contaminant level or  
14                  treatment technique and equipped with  
15                  mechanical warnings to ensure that cus-  
16                  tomers are automatically notified of oper-  
17                  ational problems. If the American National  
18                  Standards Institute has issued product  
19                  standards applicable to a specific type of  
20                  point-of-entry or point-of-use treatment  
21                  unit, individual units of that type shall not  
22                  be accepted for compliance with a maxi-  
23                  mum contaminant level or treatment tech-  
24                  nique requirement unless they are inde-

pendently certified in accordance with such standards.

“(iii) Except as provided in clause (v), Not later than 2 years after the date of the enactment of this clause and after consultation with the States, the Administrator shall issue a list of technologies that achieve compliance with the maximum contaminant level or treatment technique for each category of public water systems described in subclause (I), (II), and (III) of clause (ii) for each national primary drinking water regulation promulgated prior to the date of the enactment of this paragraph.

“(iv) The Administrator may, at any time after a national primary drinking water regulation has been promulgated, supplement the list of technologies describing additional or new or innovative treatment technologies that meet the requirements of this paragraph for categories of small public water systems described in subclauses (I), (II) and (III) of clause (ii) that are subject to the regulation.



1                   “(v) Within one year after the enact-  
2                   ment of this clause, the Administrator  
3                   shall list technologies that meet the surface  
4                   water treatment rules for each category of  
5                   public water systems described in sub-  
6                   clauses (I), (II), and (III) of clause (ii).”.

7           (b) AVAILABILITY OF INFORMATION ON SMALL SYS-  
8 TEM TECHNOLOGIES.—Section 1445 (42 U.S.C. 0j-4) is  
9 amended by adding after subsection (g):

10           “(h) AVAILABILITY OF INFORMATION ON SMALL SYS-  
11 TEM TECHNOLOGIES.—For purposes of sections  
12 1412(b)(4)(E) and 1415(e) (relating to small system as-  
13 sistance program), the Administrator may request infor-  
14 mation on the characteristics of commercially available  
15 treatment systems and technologies, including the effec-  
16 tiveness and performance of the systems and technologies  
17 under various operating conditions. The Administrator  
18 may specify the form, content, and submission date of in-  
19 formation to be submitted by manufacturers, States, and  
20 other interested persons for the purpose of considering the  
21 systems and technologies in the development of regula-  
22 tions or guidance under sections 1412(b)(4)(E) and  
23 1415(e).”.

1 **Subtitle B—State Primary Enforce-**  
2 **ment Responsibility for Public**  
3 **Water Systems**

4 **SEC. 121. STATE PRIMACY.**

5 (a) STATE PRIMARY ENFORCEMENT RESPONSIBIL-  
6 ITY.—Section 1413 (42 U.S.C. 300g–2) is amended as fol-  
7 lows:

8 (1) In subsection (a), by amending paragraph  
9 (1) to read as follows:

10 “(1) has adopted drinking water regulations  
11 that are no less stringent than the national primary  
12 drinking water regulations promulgated by the Ad-  
13 ministrator under subsections (a) and (b) of section  
14 1412 not later than 2 years after the date on which  
15 the regulations are promulgated by the Adminis-  
16 trator, except that the Administrator may provide  
17 for an extension of not more than 2 years if, after  
18 submission and review of appropriate, adequate doc-  
19 umentation from the State, the Administrator deter-  
20 mines that the extension is necessary and justified;”.

21 (2) By adding at the end the following sub-  
22 section:

23 “(c) INTERIM PRIMARY ENFORCEMENT AUTHOR-  
24 ITY.—A State that has primary enforcement authority  
25 under this section with respect to each existing national

1 primary drinking water regulation shall be considered to  
 2 have primary enforcement authority with respect to each  
 3 new or revised national primary drinking water regulation  
 4 during the period beginning on the effective date of a reg-  
 5 ulation adopted and submitted by the State with respect  
 6 to the new or revised national primary drinking water reg-  
 7 ulation in accordance with subsection (b)(1) and ending  
 8 at such time as the Administrator makes a determination  
 9 under subsection (b)(2)(B) with respect to the regula-  
 10 tion.”.

11 (b) EMERGENCY PLANS.—Section 1413(a)(5) is  
 12 amended by inserting after “emergency circumstances”  
 13 the following: “including earthquakes, floods, hurricanes,  
 14 and other natural disasters, as appropriate”.

## 15 **Subtitle C—Notification and** 16 **Enforcement**

### 17 **SEC. 131. PUBLIC NOTIFICATION.**

18 Section 1414(c) (42 U.S.C. 300g–3(c)) is amended  
 19 to read as follows:

20 “(c) NOTICE TO PERSONS SERVED.—

21 “(1) IN GENERAL.—Each owner or operator of  
 22 a public water system shall give notice of each of the  
 23 following to the persons served by the system:

24 “(A) Notice of any failure on the part of  
 25 the public water system to—

1 “(i) comply with an applicable maxi-  
2 mum contaminant level or treatment tech-  
3 nique requirement of, or a testing proce-  
4 dure prescribed by, a national primary  
5 drinking water regulation; or

6 “(ii) perform monitoring required by  
7 section 1445(a).

8 “(B) If the public water system is subject  
9 to a variance granted under subsection  
10 (a)(1)(A), (a)(2), or (e) of section 1415 for an  
11 inability to meet a maximum contaminant level  
12 requirement or is subject to an exemption  
13 granted under section 1416, notice of—

14 “(i) the existence of the variance or  
15 exemption; and

16 “(ii) any failure to comply with the  
17 requirements of any schedule prescribed  
18 pursuant to the variance or exemption.

19 “(C) Notice of the concentration level of  
20 any unregulated contaminant for which the Ad-  
21 ministrator has required public notice pursuant  
22 to paragraph (2)(E).

23 “(2) FORM, MANNER, AND FREQUENCY OF NO-  
24 TICE.—

1           “(A) IN GENERAL.—The Administrator  
2           shall, by regulation, and after consultation with  
3           the States, prescribe the manner, frequency,  
4           form, and content for giving notice under this  
5           subsection. The regulations shall—

6                   “(i) provide for different frequencies  
7                   of notice based on the differences between  
8                   violations that are intermittent or infre-  
9                   quent and violations that are continuous or  
10                  frequent; and

11                  “(ii) take into account the seriousness  
12                  of any potential adverse health effects that  
13                  may be involved.

14           “(B) STATE REQUIREMENTS.—

15                   “(i) IN GENERAL.—A State may, by  
16                   rule, establish alternative notification re-  
17                   quirements—

18                           “(I) with respect to the form and  
19                           content of notice given under and in a  
20                           manner in accordance with subpara-  
21                           graph (C); and

22                           “(II) with respect to the form  
23                           and content of notice given under sub-  
24                           paragraph (D).

1                   “(ii) CONTENTS.—The alternative re-  
2                   quirements shall provide the same type and  
3                   amount of information as required pursu-  
4                   ant to this subsection and regulations is-  
5                   sued under subparagraph (A).

6                   “(iii) RELATIONSHIP TO SECTION  
7                   1413.—Nothing in this subparagraph shall  
8                   be construed or applied to modify the re-  
9                   quirements of section 1413.

10                  “(C) VIOLATIONS WITH POTENTIAL TO  
11                  HAVE SERIOUS ADVERSE EFFECTS ON HUMAN  
12                  HEALTH.—Regulations issued under subpara-  
13                  graph (A) shall specify notification procedures  
14                  for each violation by a public water system that  
15                  has the potential to have serious adverse effects  
16                  on human health as a result of short-term expo-  
17                  sure. Each notice of violation provided under  
18                  this subparagraph shall—

19                         “(i) be distributed as soon as prac-  
20                         ticable after the occurrence of the viola-  
21                         tion, but not later than 24 hours after the  
22                         occurrence of the violation;

23                         “(ii) provide a clear and readily un-  
24                         derstandable explanation of—

25                                 “(I) the violation;

1 “(II) the potential adverse effects  
2 on human health;

3 “(III) the steps that the public  
4 water system is taking to correct the  
5 violation; and

6 “(IV) the necessity of seeking al-  
7 ternative water supplies until the vio-  
8 lation is corrected;

9 “(iii) be provided to the Administrator  
10 or the head of the State agency that has  
11 primary enforcement responsibility under  
12 section 1413 as soon as practicable, but  
13 not later than 24 hours after the occur-  
14 rence of the violation; and

15 “(iv) as required by the State agency  
16 in general regulations of the State agency,  
17 or on a case-by-case basis after the con-  
18 sultation referred to in clause (iii), consid-  
19 ering the health risks involved—

20 “(I) be provided to appropriate  
21 broadcast media;

22 “(II) be prominently published in  
23 a newspaper of general circulation  
24 serving the area not later than 1 day  
25 after distribution of a notice pursuant

1 to clause (i) or the date of publication  
2 of the next issue of the newspaper; or  
3 “(III) be provided by posting or  
4 door-to-door notification in lieu of no-  
5 tification by means of broadcast  
6 media or newspaper.

7 “(D) WRITTEN NOTICE.—

8 “(i) IN GENERAL.—Regulations issued  
9 under subparagraph (A) shall specify noti-  
10 fication procedures for violations other  
11 than the violations covered by subpara-  
12 graph (C). The procedures shall specify  
13 that a public water system shall provide  
14 written notice to each person served by the  
15 system by notice (I) in the first bill (if  
16 any) prepared after the date of occurrence  
17 of the violation, (II) in an annual report is-  
18 sued not later than 1 year after the date  
19 of occurrence of the violation, or (III) by  
20 mail or direct delivery as soon as prac-  
21 ticable, but not later than 1 year after the  
22 date of occurrence of the violation.

23 “(ii) FORM AND MANNER OF NO-  
24 TICE.—The Administrator shall prescribe  
25 the form and manner of the notice to pro-



1           vide a clear and readily understandable ex-  
2           planation of the violation, any potential ad-  
3           verse health effects, and the steps that the  
4           system is taking to seek alternative water  
5           supplies, if any, until the violation is cor-  
6           rected.

7           “(E) UNREGULATED CONTAMINANTS.—

8           The Administrator may require the owner or  
9           operator of a public water system to give notice  
10          to the persons served by the system of the con-  
11          centration levels of an unregulated contaminant  
12          required to be monitored under section 1445(a).

13          “(3) REPORTS.—

14               “(A) ANNUAL REPORT BY STATE.—

15               “(i) IN GENERAL.—Not later than  
16               January 1, 1997, and annually thereafter,  
17               each State that has primary enforcement  
18               responsibility under section 1413 shall pre-  
19               pare, make readily available to the public,  
20               and submit to the Administrator an annual  
21               report on violations of national primary  
22               drinking water regulations by public water  
23               systems in the State, including violations  
24               with respect to (I) maximum contaminant  
25               levels, (II) treatment requirements, (III)

1           variances and exemptions, and (IV) mon-  
2           itoring requirements determined to be sig-  
3           nificant by the Administrator after con-  
4           sultation with the States.

5           “(ii) DISTRIBUTION.—The State shall  
6           publish and distribute summaries of the re-  
7           port and indicate where the full report is  
8           available for review.

9           “(B) ANNUAL REPORT BY ADMINIS-  
10          TRATOR.—Not later than July 1, 1997, and an-  
11          nually thereafter, the Administrator shall pre-  
12          pare and make available to the public an annual  
13          report summarizing and evaluating reports sub-  
14          mitted by States pursuant to subparagraph (A)  
15          and notices submitted by public water systems  
16          serving Indian Tribes provided to the Adminis-  
17          trator pursuant to subparagraph (C) or (D) of  
18          paragraph (2) and making recommendations  
19          concerning the resources needed to improve  
20          compliance with this title. The report shall in-  
21          clude information about public water system  
22          compliance on Indian reservations and about  
23          enforcement activities undertaken and financial  
24          assistance provided by the Administrator on In-  
25          dian reservations, and shall make specific rec-

ommendations concerning the resources needed to improve compliance with this title on Indian reservations.

“(4) CONSUMER CONFIDENCE REPORTS BY  
COMMUNITY WATER SYSTEMS.—

“(A) ANNUAL REPORTS TO CONSUMERS.—

The Administrator, in consultation with public water systems, environmental groups, public interest groups, risk communication experts, and the States, and other interested parties, shall issue regulations within 24 months after the date of the enactment of this paragraph to require each community water system to—

“(i) publish annually in one or more local newspapers serving the area in which customers of the system are located, and

“(ii) mail to each customer of the system at least once annually

a report on the level of contaminants in the drinking water purveyed by that system (hereinafter in this paragraph referred to as a ‘consumer confidence report’). Such regulations shall provide a brief and plainly worded definition of the terms ‘maximum contaminant level goal’ and ‘maximum contaminant level’ and

1           brief statements in plain language regarding  
2           the health concerns that resulted in regulation  
3           of each regulated contaminant. The regulations  
4           shall also provide for a toll-free hot-line that  
5           consumers can call for more information and  
6           explanation.

7           “(B)    CONTENTS    OF    REPORT.—The  
8           consumer confidence reports under this para-  
9           graph shall include, but not be limited to, each  
10          of the following:

11               “(i) Information on the source of the  
12               water purveyed.

13               “(ii) A brief and plainly worded defi-  
14               nition of the terms ‘maximum contaminant  
15               level goal’ and ‘maximum contaminant  
16               level’, as provided in the regulations of the  
17               Administrator.

18               “(iii) If any regulated contaminant is  
19               detected in the water purveyed by the pub-  
20               lic water system, a statement setting forth  
21               (I) the maximum contaminant level goal,  
22               (II) the maximum contaminant level, (III)  
23               the level of such contaminant in such  
24               water system, and (IV) for any regulated  
25               contaminant for which there has been a

1 violation of the maximum contaminant  
2 level during the year concerned, the brief  
3 statement in plain language regarding the  
4 health concerns that resulted in regulation  
5 of such contaminant, as provided by the  
6 Administrator in regulations under sub-  
7 paragraph (A).

8 “(iv) Information on compliance with  
9 national primary drinking water regula-  
10 tions.

11 “(v) Information on the levels of un-  
12 regulated contaminants for which monitor-  
13 ing is required under section 1445(a)(2)  
14 (including levels of cryptosporidium and  
15 radon where States determine they may be  
16 found).

17 “(vi) A statement that more informa-  
18 tion about contaminants and potential  
19 health effects can be obtained by calling  
20 the Environmental Protection Agency hot  
21 line.

22 A public water system may include such addi-  
23 tional information as it deems appropriate for  
24 public education. The Administrator may, for  
25 not more than 3 regulated contaminants other

1           than those referred to in subclause (IV) of  
2           clause (iii), require a consumer confidence re-  
3           port under this paragraph to include the brief  
4           statement in plain language regarding the  
5           health concerns that resulted in regulation of  
6           the contaminant or contaminants concerned, as  
7           provided by the Administrator in regulations  
8           under subparagraph (A).

9           “(C) COVERAGE.—The Governor of a  
10          State may determine not to apply the mailing  
11          requirement of subparagraph (A)(ii) to a com-  
12          munity water system serving fewer than 10,000  
13          persons. Any such system shall—

14               “(i) inform its customers that the sys-  
15               tem will not be complying with subpara-  
16               graph (A)(ii),

17               “(ii) make information available upon  
18               request to the public regarding the quality  
19               of the water supplied by such system, and

20               “(iii) publish the public notice re-  
21               quired by subparagraph (A)(i).

22          “(D) ALTERNATIVE FORM AND CON-  
23          TENT.—A State exercising primary enforcement  
24          responsibility may establish, by rule, after no-  
25          tice and public comment, alternative require-

1           ments with respect to the form and content of  
 2           consumer confidence reports under this para-  
 3           graph.”.

4   **SEC. 132. ENFORCEMENT.**

5           (a) IN GENERAL.—Section 1414 (42 U.S.C. 300g–  
 6   3) is amended as follows:

7           (1) In subsection (a):

8                   (A) In paragraph (1)(A)(i), by striking  
 9           “any national primary drinking water regula-  
 10          tion in effect under section 1412” and inserting  
 11          “any applicable requirement”, and by striking  
 12          “with such regulation or requirement” in the  
 13          matter following clause (ii) and inserting “with  
 14          the requirement”.

15                  (B) In paragraph (1)(B), by striking “reg-  
 16          ulation or” and inserting “applicable”.

17                  (C) By amending paragraph (2) to read as  
 18          follows:

19          “(2) ENFORCEMENT IN NONPRIMACY STATES.—

20                  “(A) IN GENERAL.—If, on the basis of informa-  
 21          tion available to the Administrator, the Adminis-  
 22          trator finds, with respect to a period in which a  
 23          State does not have primary enforcement respon-  
 24          sibility for public water systems, that a public water  
 25          system in the State—

1 “(i) for which a variance under section  
2 1415 or an exemption under section 1416 is not  
3 in effect, does not comply with any applicable  
4 requirement; or

5 “(ii) for which a variance under section  
6 1415 or an exemption under section 1416 is in  
7 effect, does not comply with any schedule or  
8 other requirement imposed pursuant to the  
9 variance or exemption;

10 the Administrator shall issue an order under sub-  
11 section (g) requiring the public water system to com-  
12 ply with the requirement, or commence a civil action  
13 under subsection (b).

14 “(B) NOTICE.—If the Administrator takes any  
15 action pursuant to this paragraph, the Adminis-  
16 trator shall notify an appropriate local elected offi-  
17 cial, if any, with jurisdiction over the public water  
18 system of the action prior to the time that the action  
19 is taken.”.

20 (2) In subsection (b), in the first sentence, by  
21 striking “a national primary drinking water regula-  
22 tion” and inserting “any applicable requirement”.

23 (3) In subsection (g):



1 (A) In paragraph (1), by striking “regula-  
2 tion, schedule, or other” each place it appears  
3 and inserting “applicable”.

4 (B) In paragraph (2), by striking “effect  
5 until after notice and opportunity for public  
6 hearing and,” and inserting “effect,”, and by  
7 striking “proposed order” and inserting  
8 “order”, in the first sentence and in the second  
9 sentence, by striking “proposed to be”.

10 (C) In paragraph (3), by striking subpara-  
11 graph (B) and inserting the following:

12 “(B) In a case in which a civil penalty sought by the  
13 Administrator under this paragraph does not exceed  
14 \$5,000, the penalty shall be assessed by the Administrator  
15 after notice and opportunity for a public hearing (unless  
16 the person against whom the penalty is assessed requests  
17 a hearing on the record in accordance with section 554  
18 of title 5, United States Code). In a case in which a civil  
19 penalty sought by the Administrator under this paragraph  
20 exceeds \$5,000, but does not exceed \$25,000, the penalty  
21 shall be assessed by the Administrator after notice and  
22 opportunity for a hearing on the record in accordance with  
23 section 554 of title 5, United States Code.”.

24 (D) In paragraph (3)(C), by striking  
25 “paragraph exceeds \$5,000” and inserting

1 “subsection for a violation of an applicable re-  
2 quirement exceeds \$25,000”.

3 (4) By adding at the end the following sub-  
4 sections:

5 “(h) RELIEF.—

6 “(1) IN GENERAL.—An owner or operator of a  
7 public water system may submit to the State in  
8 which the system is located (if the State has primary  
9 enforcement responsibility under section 1413) or to  
10 the Administrator (if the State does not have pri-  
11 mary enforcement responsibility) a plan (including  
12 specific measures and schedules) for—

13 “(A) the physical consolidation of the sys-  
14 tem with 1 or more other systems;

15 “(B) the consolidation of significant man-  
16 agement and administrative functions of the  
17 system with 1 or more other systems; or

18 “(C) the transfer of ownership of the sys-  
19 tem that may reasonably be expected to im-  
20 prove drinking water quality.

21 “(2) CONSEQUENCES OF APPROVAL.—If the  
22 State or the Administrator approves a plan pursuant  
23 to paragraph (1), no enforcement action shall be  
24 taken pursuant to this part with respect to a specific  
25 violation identified in the approved plan prior to the

1 date that is the earlier of the date on which consoli-  
 2 dation is completed according to the plan or the date  
 3 that is 2 years after the plan is approved.

4 “(i) DEFINITION OF APPLICABLE REQUIREMENT.—

5 In this section, the term ‘applicable requirement’ means—

6 “(1) a requirement of section 1412, 1414,  
 7 1415, 1416, 1417, 1441, or 1445;

8 “(2) a regulation promulgated pursuant to a  
 9 section referred to in paragraph (1);

10 “(3) a schedule or requirement imposed pursu-  
 11 ant to a section referred to in paragraph (1); and

12 “(4) a requirement of, or permit issued under,  
 13 an applicable State program for which the Adminis-  
 14 trator has made a determination that the require-  
 15 ments of section 1413 have been satisfied, or an ap-  
 16 plicable State program approved pursuant to this  
 17 part.”.

18 (b) STATE AUTHORITY FOR ADMINISTRATIVE PEN-  
 19 ALTIES.—Section 1413(a) (42 U.S.C. 300g-2(a)) is  
 20 amended as follows:

21 (1) In paragraph (4), by striking “and” at the  
 22 end thereof.

23 (2) In paragraph (5), by striking the period at  
 24 the end and inserting “; and”.

25 (3) By adding at the end the following:

1           “(6) has adopted authority for administrative  
 2           penalties (unless the constitution of the State pro-  
 3           hibits the adoption of the authority) in a maximum  
 4           amount—

5                   “(A) in the case of a system serving a pop-  
 6                   ulation of more than 10,000, that is not less  
 7                   than \$1,000 per day per violation; and

8                   “(B) in the case of any other system, that  
 9                   is adequate to ensure compliance (as deter-  
 10                  mined by the State);

11           except that a State may establish a maximum limita-  
 12           tion on the total amount of administrative penalties  
 13           that may be imposed on a public water system per  
 14           violation.”.

15 **SEC. 133. JUDICIAL REVIEW.**

16           Section 1448(a) (42 U.S.C. 300j-7(a)) is amended  
 17           as follows:

18                   (1) In paragraph (2), in the first sentence, by  
 19                   inserting “final” after “any other”.

20                   (2) In the matter after and below paragraph  
 21                   (2)—

22                           (A) by striking “or issuance of the order”  
 23                           and inserting “or any other final Agency ac-  
 24                           tion”; and

1 (B) by adding at the end the following: “In  
 2 any petition concerning the assessment of a  
 3 civil penalty pursuant to section 1414(g)(3)(B),  
 4 the petitioner shall simultaneously send a copy  
 5 of the complaint by certified mail to the Admin-  
 6 istrator and the Attorney General. The court  
 7 shall set aside and remand the penalty order if  
 8 the court finds that there is not substantial evi-  
 9 dence in the record to support the finding of a  
 10 violation or that the assessment of the penalty  
 11 by the Administrator constitutes an abuse of  
 12 discretion.”.

## 13 **Subtitle D—Exemptions and** 14 **Variances**

### 15 **SEC. 141. EXEMPTIONS.**

16 (a) SYSTEMS SERVING FEWER THAN 3,300  
 17 PERSONS.—Section 1416 is amended by adding the fol-  
 18 lowing at the end thereof:

19 “(h) SMALL SYSTEMS.—(1) For public water systems  
 20 serving fewer than 3,300 persons, the maximum exemp-  
 21 tion period shall be 4 years if the State is exercising pri-  
 22 mary enforcement responsibility for public water systems  
 23 and determines that—

24 “(A) the public water system cannot meet the  
 25 maximum contaminant level or install Best Available

1 Affordable Technology (‘BAAT’) due in either case  
2 to compelling economic circumstances (taking into  
3 consideration the availability of financial assistance  
4 under section 1452, relating to State Revolving  
5 Funds) or other compelling circumstances;

6 “(B) the public water system could not comply  
7 with the maximum contaminant level through the  
8 use of alternate water supplies;

9 “(C) the granting of the exemption will provide  
10 a drinking water supply that protects public health  
11 given the duration of exemption; and

12 “(D) the State has met the requirements of  
13 paragraph (2).

14 “(2)(A) Before issuing an exemption under this sec-  
15 tion or an extension thereof for a small public water sys-  
16 tem described in paragraph (1), the State shall—

17 “(i) examine the public water system’s tech-  
18 nical, financial, and managerial capability (taking  
19 into consideration any available financial assistance)  
20 to operate in, and maintain compliance with, this  
21 title, and

22 “(ii) determine if management or restructuring  
23 changes (or both) can reasonably be made that will  
24 result in compliance with this title or, if compliance

1 cannot be achieved, improve the quality of the drink-  
2 ing water.

3 “(B) Management changes referred to in subpara-  
4 graph (A) may include rate increases, accounting changes,  
5 the hiring of consultants, the appointment of a technician  
6 with expertise in operating such systems, contractual ar-  
7 rangements for a more efficient and capable system for  
8 joint operation, or other reasonable strategies to improve  
9 capacity.

10 “(C) Restructuring changes referred to in subpara-  
11 graph (A) may include ownership change, physical consoli-  
12 dation with another system, or other measures to other-  
13 wise improve customer base and gain economies of scale.

14 “(D) If the State determines that management or re-  
15 structuring changes referred to in subparagraph (A) can  
16 reasonably be made, it shall require such changes and a  
17 schedule therefore as a condition of the exemption. If the  
18 State determines to the contrary, the State may still grant  
19 the exemption. The decision of the State under this sub-  
20 paragraph shall not be subject to review by the Adminis-  
21 trator, except as provided in subsection (d).

22 “(3) Paragraphs (1) and (3) of subsection (a) shall  
23 not apply to an exemption issued under this subsection.  
24 Subparagraph (B) of subsection (b)(2) shall not apply to  
25 an exemption issued under this subsection, but any exemp-

1 tion granted to such a system may be renewed for addi-  
 2 tional 4-year periods upon application of the public water  
 3 system and after a determination that the criteria of para-  
 4 graphs (1) and (2) of this subsection continue to be met.

5 “(4) No exemption may be issued under this section  
 6 for microbiological contaminants.”.

7 (b) LIMITED ADDITIONAL COMPLIANCE PERIOD.—  
 8 At the end of section 1416(h) insert:

9 “(5)(A) Notwithstanding this subsection, the State of  
 10 New York, on a case-by-case basis and after notice and  
 11 an opportunity of at least 60 days for public comment,  
 12 may allow an additional period for compliance with the  
 13 Surface Water Treatment Rule established pursuant to  
 14 section 1412(b)(7)(C) in the case of unfiltered systems in  
 15 Essex, Columbia, Greene, Dutchess, Rensselaer,  
 16 Schoharie, Saratoga, Washington, and Warren Counties  
 17 serving a population of less than 5,000, which meet appro-  
 18 priate disinfection requirements and have adequate water-  
 19 shed protections, so long as the State determines that the  
 20 public health will be protected during the duration of the  
 21 additional compliance period and the system agrees to im-  
 22 plement appropriate control measures as determined by  
 23 the State.

24 “(B) The additional compliance period referred to in  
 25 subparagraph (A) shall expire on the earlier of the date



1 3 years after the date on which the Administrator identi-  
2 fies appropriate control technology for the Surface Water  
3 Treatment Rule for public water systems in the category  
4 that includes such system pursuant to section  
5 1412(b)(4)(E) or 5 years after the enactment of the Safe  
6 Drinking Water Act Amendments of 1996.”.

7 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

8 (1) Section 1416(b)(1) is amended by striking “prescribed  
9 by a State pursuant to this subsection” and inserting  
10 “prescribed by a State pursuant to this subsection or sub-  
11 section (h)”.

12 (2) Section 1416(c) is amended by striking “under  
13 subsection (a)” and inserting “under this section” and by  
14 inserting after “(a)(3)” in the second sentence “or the de-  
15 termination under subsection (h)(1)(C)”.

16 (3) Section 1416(d)(1) is amended by striking “3-  
17 year” and inserting “4-year” and by amending the first  
18 sentence to read as follows: “Not later than 4 years after  
19 the date of enactment of the Safe Drinking Water Act  
20 Amendments of 1996, the Administrator shall complete a  
21 comprehensive review of the exemptions granted (and  
22 schedules prescribed pursuant thereto) by the States dur-  
23 ing the 4-year period beginning on such date.”.

24 (4) Section 1416(b)(2)(C) is repealed.

1 (d) SYSTEMS SERVING MORE THAN 3,300 PER-  
 2 SONS.—Section 1416(b)(2)(A)(ii) is amended by striking  
 3 “12 months” and inserting “4 years” and section  
 4 1416(b)(2)(B) is amended by striking “3 years after the  
 5 date of the issuance of the exemption” and inserting “4  
 6 years after the expiration of the initial exemption”.

7 **SEC. 142. VARIANCES.**

8 (a) BAAT VARIANCE.—Section 1415 (42 U.S.C.  
 9 300g-4) is amended by adding the following at the end  
 10 thereof:

11 “(e) SMALL SYSTEM ASSISTANCE PROGRAM.—

12 “(1) BAAT VARIANCES.—In the case of public  
 13 water systems serving 3,300 persons or fewer, a  
 14 variance under this section shall be granted by a  
 15 State which has primary enforcement responsibility  
 16 for public water systems allowing the use of Best  
 17 Available Affordable Technology in lieu of best tech-  
 18 nology or other means where—

19 “(A) no best technology or other means is  
 20 listed under section 1412(b)(4)(E) for the ap-  
 21 plicable category of public water systems;

22 “(B) the Administrator has identified  
 23 BAAT for that contaminant pursuant to para-  
 24 graph (3); and

1                   “(C) the State finds that the conditions in  
2                   paragraph (4) are met.

3                   “(2) DEFINITION OF BAAT.—The term ‘Best  
4                   Available Affordable Technology’ or ‘BAAT’ means  
5                   the most effective technology or other means for the  
6                   control of a drinking water contaminant or contami-  
7                   nants that is available and affordable to systems  
8                   serving fewer than 3,300 persons.

9                   “(3) IDENTIFICATION OF BAAT.—(A) As part  
10                  of each national primary drinking water regulation  
11                  proposed and promulgated after the enactment of  
12                  the Safe Drinking Water Act Amendments of 1996,  
13                  the Administrator shall identify BAAT in any case  
14                  where no ‘best technology or other means’ is listed  
15                  for a category of public water systems listed under  
16                  section 1412(b)(4)(E). No such identified BAAT  
17                  shall require a technology from a specific manufac-  
18                  turer or brand. BAAT need not be adequate to  
19                  achieve the applicable maximum contaminant level  
20                  or treatment technique, but shall bring the public  
21                  water system as close to achievement of such maxi-  
22                  mum contaminant level as practical or as close to  
23                  the level of health protection provided by such treat-  
24                  ment technique as practical, as the case may be. Any  
25                  technology or other means identified as BAAT must

1 be determined by the Administrator to be protective  
2 of public health. Simultaneously with identification  
3 of BAAT, the Administrator shall list any assump-  
4 tions underlying the public health determination re-  
5 ferred to in the preceding sentence, where such as-  
6 sumptions concern the public water system to which  
7 the technology may be applied, or its source waters.  
8 The Administrator shall provide the assumptions  
9 used in determining affordability, taking into consid-  
10 eration the number of persons served by such sys-  
11 tems. Such listing shall provide as much reliable in-  
12 formation as practicable on performance, effective-  
13 ness, limitations, costs, and other relevant factors in  
14 support of such listing, including the applicability of  
15 BAAT to surface and underground waters or both.

16 “(B) To the greatest extent possible, within 36  
17 months after the date of the enactment of the Safe  
18 Drinking Water Act Amendments of 1996, the Ad-  
19 ministrator shall identify BAAT for all national pri-  
20 mary drinking water regulations promulgated prior  
21 to such date of enactment where no best technology  
22 or other means is listed for a category of public  
23 water systems under section 1412(b)(4)(E), and  
24 where compliance by such small systems is not prac-  
25 tical. In identifying BAAT for such national primary

1 drinking water regulations, the Administrator shall  
2 give priority to evaluation of atrazine, asbestos, sele-  
3 nium, pentachlorophenol, antimony, and nickel.

4 “(4) CONDITIONS FOR BAAT VARIANCE.—To  
5 grant a variance under this subsection, the State  
6 must determine that—

7 “(A) the public water system cannot install  
8 ‘best technology or other means’ because of the  
9 system’s small size;

10 “(B) the public water system could not  
11 comply with the maximum contaminant level  
12 through use of alternate water supplies or  
13 through management changes or restructuring;

14 “(C) the public water system has the ca-  
15 pacity to operate and maintain BAAT; and

16 “(D) the circumstances of the public water  
17 system are consistent with the public health as-  
18 sumptions identified by the Administrator  
19 under paragraph (3).

20 “(5) SCHEDULES.—Any variance granted by a  
21 State under this subsection shall establish a schedule  
22 for the installation and operation of BAAT within a  
23 period not to exceed 2 years after the issuance of the  
24 variance, except that the State may grant an exten-  
25 sion of 1 additional year upon application by the

1 system. The application shall include a showing of  
2 financial or technical need. Variances under this  
3 subsection shall be for a term not to exceed 5 years  
4 (including the period allowed for installation and op-  
5 eration of BAAT), but may be renewed for such ad-  
6 ditional 5-year periods by the State upon a finding  
7 that the criteria in paragraph (1) continue to be  
8 met.

9 “(6) REVIEW.—Any review by the Adminis-  
10 trator under paragraphs (4) and (5) shall be pursu-  
11 ant to subsection (a)(1)(G)(i).

12 “(7) INELIGIBILITY FOR VARIANCES.—A vari-  
13 ance shall not be available under this subsection  
14 for—

15 “(A) any maximum contaminant level or  
16 treatment technique for a contaminant with re-  
17 spect to which a national primary drinking  
18 water regulation was promulgated prior to Jan-  
19 uary 1, 1986; or

20 “(B) a national primary drinking water  
21 regulation for a microbial contaminant (includ-  
22 ing a bacterium, virus, or other organism) or an  
23 indicator or treatment technique for a microbial  
24 contaminant.”.

25 (b) TECHNICAL AND CONFORMING CHANGES.—

1       Section 1415 (42 U.S.C. 300g-4) is amended as fol-  
2   lows:

3           (1) By striking “best technology, treatment  
4       techniques, or other means” and “best available  
5       technology, treatment techniques or other means”  
6       each place such terms appear and inserting in lieu  
7       thereof “best technology or other means”.

8           (2) By striking the third sentence and by strik-  
9       ing “Before a schedule prescribed by a State pursu-  
10      ant to this subparagraph may take effect” and all  
11      that follows down to the beginning of the last sen-  
12      tence in subsection (a)(1)(A).

13          (3) By amending the first sentence of sub-  
14      section (a)(1)(C) to read as follows: “Before a vari-  
15      ance is issued and a schedule is prescribed pursuant  
16      to this subsection or subsection (e) by a State, the  
17      State shall provide notice and an opportunity for a  
18      public hearing on the proposed variance and sched-  
19      ule.”.

20          (4) By inserting “under this section” before the  
21      period at the end of the third sentence of subsection  
22      (a)(1)(C).

23          (5) By striking “under subparagraph (A)” and  
24      inserting “under this section” in subsection  
25      (a)(1)(D).

1           (6) By striking “that subparagraph” in each  
2           place it appears and insert in each such place “this  
3           section” in subsection (a)(1)(D).

4           (7) By striking the last sentence of subsection  
5           (a)(1)(D).

6           (8) By striking “3-year” and inserting “5-year”  
7           of subsection (a)(1)(F) and by amending the first  
8           sentence of such subsection (a)(1)(F) to read as fol-  
9           lows: “Not later than 5 years after the enactment of  
10          the Safe Drinking Water Act Amendments of 1996,  
11          the Administrator shall complete a review of the  
12          variances granted under this section (and the sched-  
13          ules prescribed in connection with such variances).”.

14          (9) By striking “subparagraph (A) or (B)” and  
15          inserting “this section” in subsection (a)(1)(G)(i).

16          (10) By striking “paragraph (1)(B) or (2) of  
17          subsection (a)” and inserting “this section” in sub-  
18          section (b).

19          (11) By striking “subsection (a)” and inserting  
20          “this section” in subsection (c).

21          (12) By repealing subsection (d).



1       **Subtitle E—Lead Plumbing and**  
2                               **Pipes**

3       **SEC. 151. LEAD PLUMBING AND PIPES.**

4               Section 1417 (42 U.S.C. 300g–6) is amended as fol-  
5       lows:

6                       (1) In subsection (a)—

7                               (A) by striking paragraph (1) and insert-  
8                       ing the following:

9                       “(1) PROHIBITIONS.—

10                               “(A) IN GENERAL.—No person may use  
11                       any pipe, any pipe or plumbing fitting or fix-  
12                       ture, any solder, or any flux, after June 19,  
13                       1986, in the installation or repair of—

14                               “(i) any public water system; or

15                               “(ii) any plumbing in a residential or  
16                       nonresidential facility providing water for  
17                       human consumption,

18                       that is not lead free (within the meaning of  
19                       subsection (d)).

20                               “(B) LEADED JOINTS.—Subparagraph (A)  
21                       shall not apply to leaded joints necessary for  
22                       the repair of cast iron pipes.”.

23                       (2) In subsection (a)(2)(A), by inserting “owner  
24                       or operator of a” after “Each”.

1           (3) By adding at the end of subsection (a) the  
2 following:

3           “(3) UNLAWFUL ACTS.—Effective 2 years after  
4 the date of enactment of this paragraph, it shall be  
5 unlawful—

6           “(A) for any person to introduce into com-  
7 merce any pipe, or any pipe or plumbing fitting  
8 or fixture, that is not lead free, except for a  
9 pipe that is used in manufacturing or industrial  
10 processing;

11           “(B) for any person engaged in the busi-  
12 ness of selling plumbing supplies, except manu-  
13 facturers, to sell solder or flux that is not lead  
14 free; or

15           “(C) for any person to introduce into com-  
16 merce any solder or flux that is not lead free  
17 unless the solder or flux bears a prominent  
18 label stating that it is illegal to use the solder  
19 or flux in the installation or repair of any  
20 plumbing providing water for human consump-  
21 tion.”.

22           (4) In subsection (d)—

23           (A) by striking “lead, and” in paragraph  
24 (1) and inserting “lead;”;

1 (B) by striking “lead.” in paragraph (2)  
2 and inserting “lead; and”; and

3 (C) by adding at the end the following:

4 “(3) when used with respect to plumbing fit-  
5 tings and fixtures, refers to plumbing fittings and  
6 fixtures in compliance with standards established in  
7 accordance with subsection (e).”.

8 (5) By adding at the end the following:

9 “(e) PLUMBING FITTINGS AND FIXTURES.—

10 “(1) IN GENERAL.—The Administrator shall  
11 provide accurate and timely technical information  
12 and assistance to qualified third-party certifiers in  
13 the development of voluntary standards and testing  
14 protocols for the leaching of lead from new plumbing  
15 fittings and fixtures that are intended by the manu-  
16 facturer to dispense water for human ingestion.

17 “(2) STANDARDS.—

18 “(A) IN GENERAL.—If a voluntary stand-  
19 ard for the leaching of lead is not established  
20 by the date that is 1 year after the date of en-  
21 actment of this subsection, the Administrator  
22 shall, not later than 2 years after the date of  
23 enactment of this subsection, promulgate regu-  
24 lations setting a health-effects-based perform-  
25 ance standard establishing maximum leaching

levels from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion. The standard shall become effective on the date that is 5 years after the date of promulgation of the standard.

“(B) **ALTERNATIVE REQUIREMENT.**—If regulations are required to be promulgated under subparagraph (A) and have not been promulgated by the date that is 5 years after the date of enactment of this subsection, no person may import, manufacture, process, or distribute in commerce a new plumbing fitting or fixture, intended by the manufacturer to dispense water for human ingestion, that contains more than 4 percent lead by dry weight.”.

## **Subtitle F—Capacity Development**

### **SEC. 161. CAPACITY DEVELOPMENT.**

Part B (42 U.S.C. 300g et seq.) is amended by adding at the end the following:

#### **“SEC. 1419. CAPACITY DEVELOPMENT.**

“(a) **STATE AUTHORITY FOR NEW SYSTEMS.**—Each State shall obtain the legal authority or other means to ensure that all new community water systems and new nontransient, noncommunity water systems commencing

1 operation after October 1, 1999, demonstrate technical,  
2 managerial, and financial capacity with respect to each na-  
3 tional primary drinking water regulation in effect, or likely  
4 to be in effect, on the date of commencement of oper-  
5 ations.

6 “(b) SYSTEMS IN SIGNIFICANT NONCOMPLIANCE.—

7 “(1) LIST.—Beginning not later than 1 year  
8 after the date of enactment of this section, each  
9 State shall prepare, periodically update, and submit  
10 to the Administrator a list of community water sys-  
11 tems and nontransient, noncommunity water sys-  
12 tems that have a history of significant noncompli-  
13 ance with this title (as defined in guidelines issued  
14 prior to the date of enactment of this section or any  
15 revisions of the guidelines that have been made in  
16 consultation with the States) and, to the extent  
17 practicable, the reasons for noncompliance.

18 “(2) REPORT.—Not later than 5 years after the  
19 date of enactment of this section and as part of the  
20 capacity development strategy of the State, each  
21 State shall report to the Administrator on the suc-  
22 cess of enforcement mechanisms and initial capacity  
23 development efforts in assisting the public water sys-  
24 tems listed under paragraph (1) to improve tech-  
25 nical, managerial, and financial capacity.

1 “(c) CAPACITY DEVELOPMENT STRATEGY.—

2 “(1) IN GENERAL.—Not later than 4 years  
3 after the date of enactment of this section, each  
4 State shall develop and implement a strategy to as-  
5 sist public water systems in acquiring and maintain-  
6 ing technical, managerial, and financial capacity.

7 “(2) CONTENT.—In preparing the capacity de-  
8 velopment strategy, the State shall consider, solicit  
9 public comment on, and include as appropriate—

10 “(A) the methods or criteria that the State  
11 will use to identify and prioritize the public  
12 water systems most in need of improving tech-  
13 nical, managerial, and financial capacity;

14 “(B) a description of the institutional, reg-  
15 ulatory, financial, tax, or legal factors at the  
16 Federal, State, or local level that encourage or  
17 impair capacity development;

18 “(C) a description of how the State will  
19 use the authorities and resources of this title or  
20 other means to—

21 “(i) assist public water systems in  
22 complying with national primary drinking  
23 water regulations;

24 “(ii) encourage the development of  
25 partnerships between public water systems

1 to enhance the technical, managerial, and  
2 financial capacity of the systems; and

3 “(iii) assist public water systems in  
4 the training and certification of operators;

5 “(D) a description of how the State will es-  
6 tablish a baseline and measure improvements in  
7 capacity with respect to national primary drink-  
8 ing water regulations and State drinking water  
9 law; and

10 “(E) an identification of the persons that  
11 have an interest in and are involved in the de-  
12 velopment and implementation of the capacity  
13 development strategy (including all appropriate  
14 agencies of Federal, State, and local govern-  
15 ments, private and nonprofit public water sys-  
16 tems, and public water system customers).

17 “(3) REPORT.—Not later than 2 years after the  
18 date on which a State first adopts a capacity devel-  
19 opment strategy under this subsection, and every 3  
20 years thereafter, the head of the State agency that  
21 has primary responsibility to carry out this title in  
22 the State shall submit to the Governor a report that  
23 shall also be available to the public on the efficacy  
24 of the strategy and progress made toward improving

1 the technical, managerial, and financial capacity of  
2 public water systems in the State.

3 “(4) REVIEW.—The decisions of the State  
4 under this section regarding any particular public  
5 water system are not subject to review by the Ad-  
6 ministrator and may not serve as the basis for with-  
7 holding funds under section 1452(a)(1)(H)(i).

8 “(d) FEDERAL ASSISTANCE.—

9 “(1) IN GENERAL.—The Administrator shall  
10 support the States in developing capacity develop-  
11 ment strategies.

12 “(2) INFORMATIONAL ASSISTANCE.—

13 “(A) IN GENERAL.—Not later than 180  
14 days after the date of enactment of this section,  
15 the Administrator shall—

16 “(i) conduct a review of State capacity  
17 development efforts in existence on the  
18 date of enactment of this section and pub-  
19 lish information to assist States and public  
20 water systems in capacity development ef-  
21 forts; and

22 “(ii) initiate a partnership with  
23 States, public water systems, and the pub-  
24 lic to develop information for States on



1 recommended operator certification re-  
2 quirements.

3 “(B) PUBLICATION OF INFORMATION.—

4 The Administrator shall publish the information  
5 developed through the partnership under sub-  
6 paragraph (A)(ii) not later than 18 months  
7 after the date of enactment of this section.

8 “(3) PROMULGATION OF DRINKING WATER  
9 REGULATIONS.—In promulgating a national primary  
10 drinking water regulation, the Administrator shall  
11 include an analysis of the likely effect of compliance  
12 with the regulation on the technical, financial, and  
13 managerial capacity of public water systems.

14 “(4) GUIDANCE FOR NEW SYSTEMS.—Not later  
15 than 2 years after the date of enactment of this sec-  
16 tion, the Administrator shall publish guidance devel-  
17 oped in consultation with the States describing legal  
18 authorities and other means to ensure that all new  
19 community water systems and new nontransient,  
20 noncommunity water systems demonstrate technical,  
21 managerial, and financial capacity with respect to  
22 national primary drinking water regulations.”.

## **TITLE II—AMENDMENTS TO PART C**

### **3 SEC. 201. SOURCE WATER QUALITY ASSESSMENT.**

4 (a) GUIDELINES AND PROGRAMS.—Section 1428 is  
5 amended by adding “**AND SOURCE WATER**” after  
6 “**WELLHEAD**” in the section heading and by adding at  
7 the end thereof the following:

8 “(l) SOURCE WATER ASSESSMENT.—

9 “(1) GUIDANCE.—Within 12 months after en-  
10 actment of the Safe Drinking Water Act Amend-  
11 ments of 1996, after notice and comment, the Ad-  
12 ministrator shall publish guidance for States exercis-  
13 ing primary enforcement responsibility for public  
14 water systems to carry out directly or through dele-  
15 gation (for the protection and benefit of public water  
16 systems and for the support of monitoring flexibility)  
17 a source water assessment program within the  
18 State’s boundaries.

19 “(2) PROGRAM REQUIREMENTS.—A source  
20 water assessment program under this subsection  
21 shall—

22 “(A) delineate the boundaries of the as-  
23 sessment areas in such State from which one or  
24 more public water systems in the State receive  
25 supplies of drinking water, using all reasonably

1 available hydrogeologic information on the  
2 sources of the supply of drinking water in the  
3 State and the water flow, recharge, and dis-  
4 charge and any other reliable information as  
5 the State deems necessary to adequately deter-  
6 mine such areas; and

7 “(B) identify for contaminants regulated  
8 under this title for which monitoring is required  
9 under this title (or any unregulated contami-  
10 nants which the State, for the purposes of this  
11 subsection, has determined to present a sub-  
12 stantial threat to public health), to the extent  
13 practical, the origins within each delineated  
14 area of such contaminants to determine the  
15 susceptibility of the public water systems in the  
16 delineated area to such contaminants.

17 “(3) APPROVAL, IMPLEMENTATION, AND MON-  
18 ITORING RELIEF.—A State source water assessment  
19 program under this subsection shall be submitted to  
20 the Administrator within 18 months after the Ad-  
21 ministrators guidance is issued under this sub-  
22 section and shall be deemed approved 9 months  
23 after the date of such submittal unless the Adminis-  
24 trator disapproves the program as provided in sub-  
25 section (c). States shall begin implementation of the

1 program immediately after its approval. The Admin-  
2 istrator's approval of a State program under this  
3 subsection shall include a timetable, established in  
4 consultation with the State, allowing not more than  
5 2 years for completion after approval of the pro-  
6 gram. Public water systems seeking monitoring relief  
7 in addition to the interim relief provided under sec-  
8 tion 1418(a) shall be eligible for monitoring relief,  
9 consistent with section 1418(b), upon completion of  
10 the assessment in the delineated source water as-  
11 sessment area or areas concerned.

12 “(4) TIMETABLE.—The timetable referred to in  
13 paragraph (3) shall take into consideration the avail-  
14 ability to the State of funds under section 1452 (re-  
15 lating to State Revolving Funds) for assessments  
16 and other relevant factors. The Administrator may  
17 extend any timetable included in a State program  
18 approved under paragraph (3) to extend the period  
19 for completion by an additional 18 months. Compli-  
20 ance with subsection (g) shall not affect any State  
21 permanent monitoring flexibility program approved  
22 under section 1418(b).

23 “(5) DEMONSTRATION PROJECT.—The Admin-  
24 istrator shall, as soon as practicable, conduct a dem-  
25 onstration project, in consultation with other Fed-

1       eral agencies, to demonstrate the most effective and  
2       protective means of assessing and protecting source  
3       waters serving large metropolitan areas and located  
4       on Federal lands.

5               “(6) USE OF OTHER PROGRAMS.—To avoid du-  
6       plication and to encourage efficiency, the program  
7       under this section shall, to the extent practicable, be  
8       coordinated with other existing programs and mech-  
9       anisms, and may make use of any of the following:

10               “(A) Vulnerability assessments, sanitary  
11       surveys, and monitoring programs.

12               “(B) Delineations or assessments of  
13       ground water sources under a State wellhead  
14       protection program developed pursuant to this  
15       section.

16               “(C) Delineations or assessments of sur-  
17       face or ground water sources under a State pes-  
18       ticide management plan developed pursuant to  
19       the Pesticide and Ground Water State Manage-  
20       ment Plan Regulation (subparts I and J of part  
21       152 of title 40, Code of Federal Regulations),  
22       promulgated under section 3(d) of the Federal  
23       Insecticide, Fungicide, and Rodenticide Act (7  
24       U.S.C. 136a(d)).

1           “(D) Delineations or assessments of sur-  
2           face water sources under a State watershed ini-  
3           tiative or to satisfy the watershed criterion for  
4           determining if filtration is required under the  
5           Surface Water Treatment Rule (section 141.70  
6           of title 40, Code of Federal Regulations).

7           “(7) PUBLIC AVAILABILITY.—The State shall  
8           make the results of the source water assessments  
9           conducted under this subsection available to the pub-  
10          lic.”.

11          (b) APPROVAL AND DISAPPROVAL OF STATE PRO-  
12          GRAMS.—Section 1428 is amended as follows:

13           (1) Amend the first sentence of subsection  
14           (c)(1) to read as follows: “If, in the judgment of the  
15           Administrator, a State program or portion thereof  
16           under subsection (a) is not adequate to protect pub-  
17           lic water systems as required by subsection (a) or a  
18           State program under subsection (l) does not meet  
19           the applicable requirements of subsection (l), the Ad-  
20           ministrator shall disapprove such program or portion  
21           thereof.”.

22           (2) Add after the second sentence of subsection  
23           (c)(1) the following: “A State program developed  
24           pursuant to subsection (l) shall be deemed to meet  
25           the applicable requirements of subsection (l) unless

1 the Administrator determines within 9 months of the  
2 receipt of the program that such program (or por-  
3 tion thereof) does not meet such requirements.”.

4 (3) In the third sentence of subsection (c)(1)  
5 and in subsection (c)(2) strike “is inadequate” and  
6 insert “is disapproved”.

7 (4) In subsection (b), add the following before  
8 the period at the end of the first sentence: “and  
9 source water assessment programs under subsection  
10 (l)”.

11 (5) In subsection (g)—

12 (A) insert after “under this section” the  
13 following: “and the State source water assess-  
14 ment programs under subsection (l) for which  
15 the State uses grants under section 1452 (relat-  
16 ing to State Revolving Funds)”;

17 (B) strike “Such” in the last sentence and  
18 inserting “In the case of wellhead protection  
19 programs, such”.

20 **SEC. 202. FEDERAL FACILITIES.**

21 (a) IN GENERAL.—Part C (42 U.S.C. 300h et seq.)  
22 is amended by adding at the end thereof the following new  
23 section:

1 **“SEC. 1429. FEDERAL FACILITIES.**

2 “(a) IN GENERAL.—Each department, agency, and  
3 instrumentality of the executive, legislative, and judicial  
4 branches of the Federal Government—

5 “(1) owning or operating any facility in a well-  
6 head protection area,

7 “(2) engaged in any activity at such facility re-  
8 sulting, or which may result, in the contamination of  
9 water supplies in any such area, or

10 “(3) owning or operating any public water sys-  
11 tem,

12 shall be subject to, and comply with, all Federal, State,  
13 interstate, and local requirements, both substantive and  
14 procedural (including any requirement for permits or re-  
15 porting or any provisions for injunctive relief and such  
16 sanctions as may be imposed by a court to enforce such  
17 relief), respecting the protection of such wellhead areas  
18 and respecting such public water systems in the same  
19 manner and to the same extent as any person is subject  
20 to such requirements, including the payment of reasonable  
21 service charges. The Federal, State, interstate, and local  
22 substantive and procedural requirements referred to in  
23 this subsection include, but are not limited to, all adminis-  
24 trative orders and all civil and administrative penalties  
25 and fines, regardless of whether such penalties or fines  
26 are punitive or coercive in nature or are imposed for iso-



1 lated, intermittent, or continuing violations. The United  
2 States hereby expressly waives any immunity otherwise  
3 applicable to the United States with respect to any such  
4 substantive or procedural requirement (including, but not  
5 limited to, any injunctive relief, administrative order or  
6 civil or administrative penalty or fine referred to in the  
7 preceding sentence, or reasonable service charge). The rea-  
8 sonable service charges referred to in this subsection in-  
9 clude, but are not limited to, fees or charges assessed in  
10 connection with the processing and issuance of permits,  
11 renewal of permits, amendments to permits, review of  
12 plans, studies, and other documents, and inspection and  
13 monitoring of facilities, as well as any other nondiscrim-  
14 inatory charges that are assessed in connection with a  
15 Federal, State, interstate, or local regulatory program re-  
16 specting the protection of wellhead areas or public water  
17 systems. Neither the United States, nor any agent, em-  
18 ployee, or officer thereof, shall be immune or exempt from  
19 any process or sanction of any State or Federal Court with  
20 respect to the enforcement of any such injunctive relief.  
21 No agent, employee, or officer of the United States shall  
22 be personally liable for any civil penalty under any Fed-  
23 eral, State, interstate, or local law concerning the protec-  
24 tion of wellhead areas or public water systems with respect  
25 to any act or omission within the scope of the official du-

1 ties of the agent, employee, or officer. An agent, employee,  
2 or officer of the United States shall be subject to any  
3 criminal sanction (including, but not limited to, any fine  
4 or imprisonment) under any Federal or State requirement  
5 adopted pursuant to this title, but no department, agency,  
6 or instrumentality of the executive, legislative, or judicial  
7 branch of the Federal Government shall be subject to any  
8 such sanction. The President may exempt any facility of  
9 any department, agency, or instrumentality in the execu-  
10 tive branch from compliance with such a requirement if  
11 he determines it to be in the paramount interest of the  
12 United States to do so. No such exemption shall be grant-  
13 ed due to lack of appropriation unless the President shall  
14 have specifically requested such appropriation as a part  
15 of the budgetary process and the Congress shall have  
16 failed to make available such requested appropriation. Any  
17 exemption shall be for a period not in excess of 1 year,  
18 but additional exemptions may be granted for periods not  
19 to exceed 1 year upon the President's making a new deter-  
20 mination. The President shall report each January to the  
21 Congress all exemptions from the requirements of this sec-  
22 tion granted during the preceding calendar year, together  
23 with his reason for granting each such exemption.

24 “(b) ADMINISTRATIVE PENALTY ORDERS.—

1           “(1) IN GENERAL.—If the Administrator finds  
2           that a Federal agency has violated an applicable re-  
3           quirement under this title, the Administrator may  
4           issue a penalty order assessing a penalty against the  
5           Federal agency.

6           “(2) PENALTIES.—The Administrator may,  
7           after notice to the agency, assess a civil penalty  
8           against the agency in an amount not to exceed  
9           \$25,000 per day per violation.

10          “(3) PROCEDURE.—Before an administrative  
11          penalty order issued under this subsection becomes  
12          final, the Administrator shall provide the agency an  
13          opportunity to confer with the Administrator and  
14          shall provide the agency notice and an opportunity  
15          for a hearing on the record in accordance with chap-  
16          ters 5 and 7 of title 5, United States Code.

17          “(4) PUBLIC REVIEW.—

18               “(A) IN GENERAL.—Any interested person  
19               may obtain review of an administrative penalty  
20               order issued under this subsection. The review  
21               may be obtained in the United States District  
22               Court for the District of Columbia or in the  
23               United States District Court for the district in  
24               which the violation is alleged to have occurred  
25               by the filing of a complaint with the court with-

1 in the 30-day period beginning on the date the  
2 penalty order becomes final. The person filing  
3 the complaint shall simultaneously send a copy  
4 of the complaint by certified mail to the Admin-  
5 istrator and the Attorney General.

6 “(B) RECORD.—The Administrator shall  
7 promptly file in the court a certified copy of the  
8 record on which the order was issued.

9 “(C) STANDARD OF REVIEW.—The court  
10 shall not set aside or remand the order unless  
11 the court finds that there is not substantial evi-  
12 dence in the record, taken as a whole, to sup-  
13 port the finding of a violation or that the as-  
14 sessment of the penalty by the Administrator  
15 constitutes an abuse of discretion.

16 “(D) PROHIBITION ON ADDITIONAL PEN-  
17 ALTIES.—The court may not impose an addi-  
18 tional civil penalty for a violation that is subject  
19 to the order unless the court finds that the as-  
20 sessment constitutes an abuse of discretion by  
21 the Administrator.

22 “(c) LIMITATION ON STATE USE OF FUNDS COL-  
23 LECTED FROM FEDERAL GOVERNMENT.—Unless a State  
24 law in effect on the date of the enactment of the Safe  
25 Drinking Water Act Amendments of 1996 or a State con-

stitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government from penalties and fines imposed for violation of any substantive or procedural requirement referred to in subsection (a) shall be used by the State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.”.

(b) CITIZEN ENFORCEMENT.—The first sentence of section 1449(a) (42 U.S.C. 300j–8(a)) is amended—

(1) in paragraph (1), by striking “, or” and inserting a semicolon;

(2) in paragraph (2), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(3) for the collection of a penalty by the United States Government (and associated costs and interest) against any Federal agency that fails, by the date that is 1 year after the effective date of a final order to pay a penalty assessed by the Administrator under section 1447(d), to pay the penalty.”.

(c) CONFORMING AMENDMENTS.—Section 1447 (42 U.S.C. 300j–6) is amended as follows:

(1) In subsection (a)—

1 (A) in the first sentence, by striking “(1)  
 2 having jurisdiction over any federally owned or  
 3 maintained public water system or (2)”;

4 (B) in the first sentence, by striking out  
 5 “respecting the provision of safe drinking water  
 6 and”; and

7 (C) in the second sentence, by striking  
 8 “(A)”, “(B)”, and “(C)” and inserting “(1)”,  
 9 “(2)”, and “(3)”, respectively.

10 (2) In subsection (c), by striking “the Safe  
 11 Drinking Water Amendments of 1977” and insert-  
 12 ing “this title” and by striking “this Act” and in-  
 13 serting “this title”.

14 **TITLE III—GENERAL PROVI-**  
 15 **SIONS REGARDING SAFE**  
 16 **DRINKING WATER ACT**

17 **SEC. 301. OPERATOR CERTIFICATION.**

18 Section 1442 is amended by adding the following  
 19 after subsection (e):

20 “(f) MINIMUM STANDARDS.—(1) Not later than 30  
 21 months after the date of enactment of the Safe Drinking  
 22 Water Act Amendments of 1996 and after consultation  
 23 with States exercising primary enforcement responsibility  
 24 for public water systems, the Administrator shall promul-  
 25 gate regulations specifying minimum standards for certifi-

1 cation (and recertification) of the operators of community  
2 and nontransient noncommunity public water systems.  
3 Such regulations shall take into account existing State  
4 programs, the complexity of the system and other factors  
5 aimed at providing an effective program at reasonable cost  
6 to States and public water systems, taking into account  
7 the size of the system.

8       “(2) Any State exercising primary enforcement re-  
9 sponsibility for public water systems shall adopt and im-  
10 plement, within 2 years after the promulgation of regula-  
11 tions pursuant to paragraph (1), requirements for the cer-  
12 tification of operators of community and nontransient  
13 noncommunity public water systems.

14       “(3) For any State exercising primary enforcement  
15 responsibility for public water systems which has an oper-  
16 ator certification program in effect on the date of the en-  
17 actment of the Safe Drinking Water Act Amendments of  
18 1996, the regulations under paragraph (1) shall allow the  
19 State to enforce such program in lieu of the regulations  
20 under paragraph (1) if the State submits the program to  
21 the Administrator within 18 months after the promulga-  
22 tion of such regulations unless the Administrator deter-  
23 mines (within 9 months after the State submits the pro-  
24 gram to the Administrator) that such program is not sub-  
25 stantially equivalent to such regulations. In making this

1 determination, such existing State programs shall be pre-  
2 sumed to be substantially equivalent to the regulations,  
3 notwithstanding program differences, based on the size of  
4 systems or the quality of source water, providing State  
5 programs meet overall public health objectives of the regu-  
6 lations. If disapproved the program may be resubmitted  
7 in accordance with section 1428(c).”.

8 **SEC. 302. TECHNICAL ASSISTANCE.**

9 Section 1442(e) (42 U.S.C. 300j-1(e)), relating to  
10 technical assistance for small systems, is amended to read  
11 as follows:

12 “(e) TECHNICAL ASSISTANCE.—The Administrator  
13 may provide technical assistance to small public water sys-  
14 tems to enable such systems to achieve and maintain com-  
15 pliance with applicable national primary drinking water  
16 regulations. Such assistance may include circuit-rider pro-  
17 grams, training, and preliminary engineering evaluations.  
18 There is authorized to be appropriated to the Adminis-  
19 trator to be used for such technical assistance  
20 \$15,000,000 for fiscal years 1997 through 2003. No por-  
21 tion of any State revolving fund established under section  
22 1452 (relating to State revolving funds) and no portion  
23 of any funds made available under this subsection may  
24 be used either directly or indirectly for lobbying expenses.  
25 Of the total amount appropriated under this subsection,



1 3 percent shall be used for technical assistance to public  
2 water systems owned or operated by Indian tribes.”.

3 **SEC. 303. PUBLIC WATER SYSTEM SUPERVISION PROGRAM.**

4 Section 1443(a) (42 U.S.C. 300j–2(a)) is amended  
5 as follows:

6 (1) In paragraph (7), by adding at the end a  
7 period and the following: “For the purpose of mak-  
8 ing grants under paragraph (1), there are author-  
9 ized to be appropriated \$100,000,000 for each of fis-  
10 cal years 1994 through 2003.”.

11 (2) By adding at the end the following:

12 “(8) RESERVATION OF FUNDS BY THE ADMINIS-  
13 TRATOR.—If the Administrator assumes the primary en-  
14 forcement responsibility of a State public water system su-  
15 pervision program, the Administrator may reserve from  
16 funds made available pursuant to this subsection, an  
17 amount equal to the amount that would otherwise have  
18 been provided to the State pursuant to this subsection.  
19 The Administrator shall use the funds reserved pursuant  
20 to this paragraph to ensure the full and effective adminis-  
21 tration of a public water system supervision program in  
22 the State.

23 “(9) STATE LOAN FUNDS.—For any fiscal year for  
24 which the amount made available to the Administrator by  
25 appropriations to carry out this subsection is less than the

1 amount that the Administrator determines is necessary to  
2 supplement funds made available pursuant to paragraph  
3 (8) to ensure the full and effective administration of a  
4 public water system supervision program in a State, the  
5 Administrator may reserve from the funds made available  
6 to the State under section 1452 (relating to State revolving  
7 funds) an amount that is equal to the amount of the  
8 shortfall. This paragraph shall not apply to any State not  
9 exercising primary enforcement responsibility for public  
10 water systems as of the date of enactment of the Safe  
11 Drinking Water Amendments of 1996.”.

12 **SEC. 304. MONITORING AND INFORMATION GATHERING.**

13 (a) REVIEW OF EXISTING REQUIREMENTS.—Para-  
14 graph (1) of section 1445(a) (42 U.S.C. 300j–4(a)(1)) is  
15 amended to read as follows:

16 “(1)(A) Every person who is subject to any re-  
17 quirement of this title or who is a grantee, shall es-  
18 tablish and maintain such records, make such re-  
19 ports, conduct such monitoring, and provide such in-  
20 formation as the Administrator may reasonably re-  
21 quire by regulation to assist the Administrator in es-  
22 tablishing regulations under this title, in determin-  
23 ing whether such person has acted or is acting in  
24 compliance with this title, in administering any pro-  
25 gram of financial assistance under this title, in eval-

1 uating the health risks of unregulated contaminants,  
2 or in advising the public of such risks. In requiring  
3 a public water system to monitor under this sub-  
4 section, the Administrator may take into consider-  
5 ation the system size and the contaminants likely to  
6 be found in the system's drinking water.

7 “(B) Every person who is subject to a national  
8 primary drinking water regulation under section  
9 1412 shall provide such information as the Adminis-  
10 trator may reasonably require, after consultation  
11 with the State in which such person is located if  
12 such State has primary enforcement responsibility  
13 for public water systems, on a case-by-case basis, to  
14 determine whether such person has acted or is act-  
15 ing in compliance with this title.

16 “(C) Every person who is subject to a national  
17 primary drinking water regulation under section  
18 1412 shall provide such information as the Adminis-  
19 trator may reasonably require to assist the Adminis-  
20 trator in establishing regulations under section 1412  
21 of this title, after consultation with States and sup-  
22 pliers of water. The Administrator may not require  
23 under this subparagraph the installation of treat-  
24 ment equipment or process changes, the testing of  
25 treatment technology, or the analysis or processing

1 of monitoring samples, except where the Adminis-  
2 trator provides the funding for such activities. Be-  
3 fore exercising this authority, the Administrator  
4 shall first seek to obtain the information by vol-  
5 untary submission.

6 “(D) The Administrator shall not later than 2  
7 years after the date of enactment of this sentence,  
8 after consultation with public health experts, rep-  
9 resentatives of the general public, and officials of  
10 State and local governments, review the monitoring  
11 requirements for not fewer than 12 contaminants  
12 identified by the Administrator, and promulgate any  
13 necessary modifications.”.

14 (b) MONITORING RELIEF.—Part B is amended by  
15 adding the following new section after section 1417:

16 **“SEC. 1418. MONITORING OF CONTAMINANTS.**

17 “(a) INTERIM MONITORING RELIEF AUTHORITY.—

18 (1) A State exercising primary enforcement responsibility  
19 for public water systems may modify the monitoring re-  
20 quirements for any regulated or unregulated contaminants  
21 for which monitoring is required other than microbial con-  
22 taminants (or indicators thereof), disinfectants and dis-  
23 infection byproducts or corrosion byproducts for an in-  
24 terim period to provide that any public water system serv-  
25 ing 10,000 persons or fewer shall not be required to con-

1 duct additional quarterly monitoring during an interim re-  
2 lief period for such contaminants if—

3 “(i) monitoring, conducted at the beginning of  
4 the period for the contaminant concerned and cer-  
5 tified to the State by the public water system, fails  
6 to detect the presence of the contaminant in the  
7 ground or surface water supplying the public water  
8 system, and

9 “(ii) the State, (considering the hydrogeology of  
10 the area and other relevant factors), determines in  
11 writing that the contaminant is unlikely to be de-  
12 tected by further monitoring during such period.

13 “(2) The interim relief period referred to in para-  
14 graph (1) shall terminate when permanent monitoring re-  
15 lief is adopted and approved for such State, or at the end  
16 of 36 months after the enactment of the Safe Drinking  
17 Water Act Amendments of 1996, whichever comes first.  
18 In order to serve as a basis for interim relief, the monitor-  
19 ing conducted at the beginning of the period must occur  
20 at the time determined by the State to be the time of the  
21 public water system’s greatest vulnerability to the con-  
22 taminant concerned in the relevant ground or surface  
23 water, taking into account in the case of pesticides the  
24 time of application of the pesticide for the source water  
25 area and the travel time for the pesticide to reach such

1 waters and taking into account, in the case of other con-  
2 taminants, seasonality of precipitation and contaminant  
3 travel time.

4 “(b) PERMANENT MONITORING RELIEF AUTHOR-  
5 ITY.—(1) Each State exercising primary enforcement re-  
6 sponsibility for public water systems under this title and  
7 having an approved wellhead protection program and a  
8 source water assessment program may adopt, in accord-  
9 ance with guidance published by the Administrator, and  
10 submit to the Administrator as provided in section  
11 1428(c), tailored alternative monitoring requirements for  
12 public water systems in such State (as an alternative to  
13 the monitoring requirements specified in the Administra-  
14 tor’s standardized monitoring framework for chemical con-  
15 taminants and the applicable national primary drinking  
16 water regulations) where the State concludes that (based  
17 on data available at the time of adoption concerning sus-  
18 ceptibility, use, occurrence, wellhead protection, or from  
19 the State’s drinking water source water assessment pro-  
20 gram) such alternative monitoring would provide assur-  
21 ance that it complies with the Administrator’s guidelines.  
22 The State program must be adequate to assure compliance  
23 with, and enforcement of, applicable national primary  
24 drinking water regulations. Alternative monitoring shall  
25 not apply to regulated microbiological contaminants (or in-

1 dicators thereof), disinfectants and disinfection by-prod-  
2 ucts, or corrosion by-products. The preceding sentence is  
3 not intended to limit other authority of the Administrator  
4 under other provisions of this title to grant monitoring  
5 flexibility.

6       “(2)(A) The Administrator shall issue, after notice  
7 and comment and at the same time as guidelines are is-  
8 sued for source water assessment under section 1428(l),  
9 guidelines for States to follow in proposing alternative re-  
10 quirements to the standardized monitoring framework for  
11 chemical contaminants. The Administrator shall publish  
12 such framework in the Federal Register. The guidelines  
13 shall assure that the public health will be protected from  
14 drinking water contamination. The guidelines shall require  
15 that a State alternative monitoring program apply on a  
16 contaminant-by-contaminant basis and that, to be eligible  
17 for such alternative monitoring program, a public water  
18 system must show the State that the contaminant is not  
19 present in the drinking water supply or, if present, it is  
20 reliably and consistently below the maximum contaminant  
21 level.

22       “(B) For purposes of subparagraph (A), the phrase  
23 ‘reliably and consistently below the maximum contaminant  
24 level’ means that, although contaminants have been de-  
25 tected in a water supply, the State has sufficient knowl-

1 edge of the contamination source and extent of contamina-  
2 tion to predict that the maximum contaminant level will  
3 not be exceeded. In determining that a contaminant is reli-  
4 ably and consistently below the maximum contaminant  
5 level, States shall consider the quality and completeness  
6 of data, the length of time covered and the volatility or  
7 stability of monitoring results during that time, and the  
8 proximity of such results to the maximum contaminant  
9 level. Wide variations in the analytical results, or analyt-  
10 ical results close to the maximum contaminant level, shall  
11 not be considered to be reliably and consistently below the  
12 maximum contaminant level.

13 “(3) The guidelines issued by the Administrator  
14 under paragraph (2) shall require that if, after the mon-  
15 itoring program is in effect and operating, a contaminant  
16 covered by the alternative monitoring program is detected  
17 at levels at or above the maximum contaminant level or  
18 is no longer reliably or consistently below the maximum  
19 contaminant level, the public water system must either—

20 “(A) demonstrate that the contamination  
21 source has been removed or that other action has  
22 been taken to eliminate the contamination problem,  
23 or



1           “(B) test for the detected contaminant pursu-  
2           ant to the applicable national primary drinking  
3           water regulation.

4           “(c) TREATMENT AS NPDWR.—All monitoring relief  
5           granted by a State to a public water system for a regu-  
6           lated contaminant under subsection (a) or (b) shall be  
7           treated as part of the national primary drinking water reg-  
8           ulation for that contaminant.

9           “(d) OTHER MONITORING RELIEF.—Nothing in this  
10          section shall be construed to affect the authority of the  
11          States under the standard monitoring framework for  
12          chemical contaminants and under applicable national pri-  
13          mary drinking water regulations to alter monitoring re-  
14          quirements through waivers or other existing authorities.  
15          The Administrator shall periodically review and, as appro-  
16          priate, revise such authorities.”.

17          (c)     UNREGULATED     CONTAMINANTS.—Section  
18          1445(a) (42 U.S.C. 300j–4(a)) is amended by striking  
19          paragraphs (2) through (8) and inserting the following:

20                 “(2) MONITORING PROGRAM FOR UNREGU-  
21                 LATED CONTAMINANTS.—

22                 “(A) ESTABLISHMENT.—The Adminis-  
23                 trator shall promulgate regulations establishing  
24                 the criteria for a monitoring program for un-  
25                 regulated contaminants. The regulations shall

1           require monitoring of drinking water supplied  
2           by public water systems and shall vary the fre-  
3           quency and schedule for monitoring require-  
4           ments for systems based on the number of per-  
5           sons served by the system, the source of supply,  
6           and the contaminants likely to be found.

7           “(B) MONITORING PROGRAM FOR CERTAIN  
8           UNREGULATED CONTAMINANTS.—

9           “(i) INITIAL LIST.—Not later than 3  
10          years after the date of enactment of the  
11          Safe Drinking Water Amendments of 1996  
12          and every 5 years thereafter, the Adminis-  
13          trator shall issue a list pursuant to sub-  
14          paragraph (A) of not more than 40 un-  
15          regulated contaminants to be monitored by  
16          public water systems and to be included in  
17          the national drinking water occurrence  
18          data base maintained pursuant to sub-  
19          section (g).

20          “(ii) GOVERNORS’ PETITION.—The  
21          Administrator shall include among the list  
22          of contaminants for which monitoring is  
23          required under this paragraph each con-  
24          taminant recommended in a petition signed  
25          by the Governor of each of 7 or more

1 States, unless the Administrator deter-  
2 mines that the action would prevent the  
3 listing of other contaminants of a higher  
4 public health concern.

5 “(C) MONITORING PLAN FOR SMALL AND  
6 MEDIUM SYSTEMS.—

7 “(i) IN GENERAL.—Based on the reg-  
8 ulations promulgated by the Administrator,  
9 each State shall develop a representative  
10 monitoring plan to assess the occurrence of  
11 unregulated contaminants in public water  
12 systems that serve a population of 10,000  
13 or fewer. The plan shall require monitoring  
14 for systems representative of different  
15 sizes, types, and geographic locations in  
16 the State.

17 “(ii) GRANTS FOR SMALL SYSTEM  
18 COSTS.—From funds appropriated under  
19 subparagraph (G), the Administrator shall  
20 pay the reasonable cost of such testing and  
21 laboratory analysis as are necessary to  
22 carry out monitoring under the plan.

23 “(D) MONITORING RESULTS.—Each public  
24 water system that conducts monitoring of un-  
25 regulated contaminants pursuant to this para-

graph shall provide the results of the monitoring to the primary enforcement authority for the system.

“(E) NOTIFICATION.—Notification of the availability of the results of monitoring programs required under paragraph (2)(A) shall be given to the persons served by the system and the Administrator.

“(F) WAIVER OF MONITORING REQUIREMENT.—The Administrator shall waive the requirement for monitoring for a contaminant under this paragraph in a State, if the State demonstrates that the criteria for listing the contaminant do not apply in that State.

“(G) ANALYTICAL METHODS.—The State may use screening methods approved by the Administrator under subsection (g) in lieu of monitoring for particular contaminants under this paragraph.

“(H) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph \$10,000,000 for each of the fiscal years 1997 through 2003.”.

1 (d) SCREENING METHODS.—Section 1445 (42 U.S.C.  
2 300j-4) is amended by adding the following after sub-  
3 section (h):

4 “(i) SCREENING METHODS.—The Administrator  
5 shall review new analytical methods to screen for regulated  
6 contaminants and may approve such methods as are more  
7 accurate or cost-effective than established reference meth-  
8 ods for use in compliance monitoring.”.

9 **SEC. 305. OCCURRENCE DATA BASE.**

10 Section 1445 is amended by adding the following new  
11 subsection after subsection (f):

12 “(g) NATIONAL DRINKING WATER OCCURRENCE  
13 DATA BASE.—

14 “(1) IN GENERAL.—Not later than 3 years  
15 after the date of enactment of the Safe Drinking  
16 Water Act Amendments of 1996, the Administrator  
17 shall assemble and maintain a national drinking  
18 water occurrence data base, using information on  
19 the occurrence of both regulated and unregulated  
20 contaminants in public water systems obtained  
21 under subsection (a)(1)(A) or subsection (a)(2) and  
22 reliable information from other public and private  
23 sources.

24 “(2) PUBLIC INPUT.—In establishing the occur-  
25 rence data base, the Administrator shall solicit rec-

ommendations from the Science Advisory Board, the States, and other interested parties concerning the development and maintenance of a national drinking water occurrence data base, including such issues as the structure and design of the data base, data input parameters and requirements, and the use and interpretation of data.

“(3) USE.—The data shall be used by the Administrator in making determinations under section 1412(b)(1) with respect to the occurrence of a contaminant in drinking water at a level of public health concern.

“(4) PUBLIC RECOMMENDATIONS.—The Administrator shall periodically solicit recommendations from the appropriate officials of the National Academy of Sciences and the States, and any person may submit recommendations to the Administrator, with respect to contaminants that should be included in the national drinking water occurrence data base, including recommendations with respect to additional unregulated contaminants that should be listed under subsection (a)(2). Any recommendation submitted under this clause shall be accompanied by reasonable documentation that—

1           “(A) the contaminant occurs or is likely to  
2           occur in drinking water; and

3           “(B) the contaminant poses a risk to pub-  
4           lic health.

5           “(5) PUBLIC AVAILABILITY.—The information  
6           from the data base shall be available to the public  
7           in readily accessible form.

8           “(6) REGULATED CONTAMINANTS.—With re-  
9           spect to each contaminant for which a national pri-  
10          mary drinking water regulation has been established,  
11          the data base shall include information on the detec-  
12          tion of the contaminant at a quantifiable level in  
13          public water systems (including detection of the con-  
14          taminant at levels not constituting a violation of the  
15          maximum contaminant level for the contaminant).

16          “(7) UNREGULATED CONTAMINANTS.—With re-  
17          spect to contaminants for which a national primary  
18          drinking water regulation has not been established,  
19          the data base shall include—

20                 “(A) monitoring information collected by  
21                 public water systems that serve a population of  
22                 more than 3,300, as required by the Adminis-  
23                 trator under subsection (a);

24                 “(B) monitoring information collected by  
25                 the States from a representative sampling of

1 public water systems that serve a population of  
2 3,300 or fewer; and

3 “(C) other reliable and appropriate mon-  
4 itoring information on the occurrence of the  
5 contaminants in public water systems that is  
6 available to the Administrator.”.

7 **SEC. 306. CITIZENS SUITS.**

8 Section 1449 (42 U.S.C. 300j-8) is amended by in-  
9 serting “, or a State” after “prosecuting a civil action in  
10 a court of the United States” in subsection (b)(1)(B).

11 **SEC. 307. WHISTLE BLOWER.**

12 (a) WHISTLE BLOWER.—Section 1450(i) is amended  
13 as follows:

14 (1) Amend paragraph (2)(A) by striking “30  
15 days” and inserting “180 days” and by inserting be-  
16 fore the period at the end “and the Environmental  
17 Protection Agency”.

18 (2) Amend paragraph (2)(B)(i) by inserting be-  
19 fore the last sentence the following: “Upon conclu-  
20 sion of such hearing and the issuance of a rec-  
21 ommended decision that the complaint has merit,  
22 the Secretary shall issue a preliminary order provid-  
23 ing the relief prescribed in clause (ii), but may not  
24 order compensatory damages pending a final  
25 order.”.



1           (3) Amend paragraph (2)(B)(ii) by inserting  
2       “and” before “(III)” and by striking “compensatory  
3       damages, and (IV) where appropriate, exemplary  
4       damages” and inserting “and the Secretary may  
5       order such person to provide compensatory damages  
6       to the complainant”.

7           (4) Redesignate paragraphs (3), (4), (5), and  
8       (6) as paragraphs (4), (5), (6), and (7), respectively,  
9       and insert after paragraph (2) the following:

10       “(3)(A) The Secretary shall dismiss a complaint filed  
11      under paragraph (1), and shall not conduct the investiga-  
12      tion required under paragraph (2), unless the complainant  
13      has made a prima facie showing that any behavior de-  
14      scribed in subparagraphs (A) through (C) of paragraph  
15      (1) was a contributing factor in the unfavorable personnel  
16      action alleged in the complaint.

17       “(B) Notwithstanding a finding by the Secretary that  
18      the complaint has made the showing required by para-  
19      graph (1)(A), no investigation required under paragraph  
20      (2) shall be conducted if the employer demonstrates, by  
21      clear and convincing evidence, that it would have taken  
22      the same unfavorable personnel action in the absence of  
23      such behavior.

24       “(C) The Secretary may determine that a violation  
25      of paragraph (1) has occurred only if the complainant has

1 demonstrated that any behavior described in subpara-  
2 graphs (A) through (C) of paragraph (1) was a contribut-  
3 ing factor in the unfavorable personnel action alleged in  
4 the complaint.

5 “(D) Relief may not be ordered under paragraph (2)  
6 if the employer demonstrates clear and convincing evi-  
7 dence that it would have taken the same unfavorable per-  
8 sonnel action in the absence of such behavior.”.

9 (5) Add at the end the following:

10 “(8) This subsection may not be construed to expand,  
11 diminish, or otherwise affect any right otherwise available  
12 to an employee under Federal or State law to reduce the  
13 employee’s discharge or other discriminatory action taken  
14 by the employer against the employee. The provisions of  
15 this subsection shall be prominently posted in any place  
16 of employment to which this subsection applies.”.

17 (b) EFFECTIVE DATE.—The amendments made by  
18 subsection (a) shall apply to claims filed under section  
19 1450(i) of the Public Health Service Act on or after the  
20 date of the enactment of this Act.

21 **SEC. 308. STATE REVOLVING FUNDS.**

22 (a) STATE REVOLVING FUNDS.—Part E (42 U.S.C.  
23 300j et seq.) is amended by adding the following new sec-  
24 tion after section 1451:

1   **“SEC. 1452. STATE REVOLVING FUNDS.**

2       “(a) GENERAL AUTHORITY.—

3           “(1) GRANTS TO STATES TO ESTABLISH RE-  
4       VOLVING FUNDS.—(A) The Administrator shall  
5       enter into agreements with eligible States to make  
6       capitalization grants, including letters of credit, to  
7       the States under this subsection solely to further the  
8       health protection objectives of this title, promote the  
9       efficient use of fund resources, and for such other  
10      purposes as are specified in this title.

11          “(B) To be eligible to receive a capitalization  
12      grant under this section, a State shall establish a  
13      drinking water treatment revolving loan fund and  
14      comply with the other requirements of this section.

15          “(C) Such a grant to a State shall be deposited  
16      in the drinking water treatment revolving fund es-  
17      tablished by the State, except as otherwise provided  
18      in this section and in other provisions of this title.  
19      No portion of funds authorized to be used for other  
20      purposes in this section or authorized by other provi-  
21      sions of this title to be used for other purposes spec-  
22      ified in this title shall be deposited in any State re-  
23      volving fund.

24          “(D) Such a grant to a State shall be available  
25      to the State for obligation during the fiscal year for  
26      which the funds are authorized and during the fol-

1       lowing fiscal year, except that grants made available  
2       from funds provided in Public Law 103–327, Public  
3       Law 103–124, and Public Law 104–134 shall be  
4       available for obligation during each of the fiscal  
5       years 1997 and 1998.

6           “(E) Except as otherwise provided in this sec-  
7       tion, funds made available to carry out this part  
8       shall be allotted to States that have entered into an  
9       agreement pursuant to this section in accordance  
10      with—

11           “(i) for each of fiscal years 1995 through  
12       1997, a formula that is the same as the for-  
13       mula used to distribute public water system su-  
14       pervision grant funds under section 1443 in fis-  
15       cal year 1995, except that the minimum propor-  
16       tionate share established in the formula shall be  
17       1 percent of available funds and the formula  
18       shall be adjusted to include a minimum propor-  
19       tionate share for the State of Wyoming; and

20           “(ii) for fiscal year 1998 and each subse-  
21       quent fiscal year, a formula that allocates to  
22       each State the proportional share of the State  
23       needs identified in the most recent survey con-  
24       ducted pursuant to section 1452(h), except that  
25       the minimum proportionate share provided to

1           each State shall be the same as the minimum  
2           proportionate share provided under clause (i).

3           “(F) Such grants not obligated by the last day  
4           of the period for which the grants are available shall  
5           be reallocated according to the appropriate criteria set  
6           forth in subparagraph (E).

7           “(G) The State allotment for a State not exer-  
8           cising primary enforcement responsibility for public  
9           water systems shall not be deposited in any such  
10          fund but shall be allotted by the Administrator as  
11          follows: 20 percent of such allotment shall be avail-  
12          able to the Administrator as needed to exercise pri-  
13          mary enforcement responsibility under this title in  
14          such State and the remainder shall be reallocated to  
15          States exercising primary enforcement responsibility  
16          for public water systems for deposit in such funds.  
17          Whenever the Administrator makes a final deter-  
18          mination pursuant to section 1413(b) that the re-  
19          quirements of section 1413(a) are no longer being  
20          met by a State, additional grants for such State  
21          under this title shall be immediately terminated by  
22          the Administrator. This subparagraph shall not  
23          apply to any State not exercising primary enforce-  
24          ment responsibility for public water systems as of

1 the date of enactment of the Safe Drinking Water  
2 Amendments of 1996.

3 “(H)(i) Beginning in fiscal year 1999, the Ad-  
4 ministrator shall withhold 20 percent of each cap-  
5 italization grant made pursuant to this section to a  
6 State unless the State has met the requirements of  
7 section 1419 (relating to capacity development).

8 “(ii) The Administrator shall withhold 20 per-  
9 cent of each capitalization grant made pursuant to  
10 this section unless the State has met the require-  
11 ments of subsection (f) of section 1442 (relating to  
12 operator certification).

13 “(iii) All funds withheld by the Administrator  
14 pursuant to clause (i) shall be reallocated by the Ad-  
15 ministrator on the basis of the same ratio as is ap-  
16 plicable to funds allotted under subparagraph (E).  
17 None of the funds reallocated by the Administrator  
18 pursuant to this paragraph shall be allotted to a  
19 State unless the State has met the requirements of  
20 section 1419 (relating to capacity development).

21 “(iv) All funds withheld by the Administrator  
22 pursuant to clause (ii) shall be reallocated by the Ad-  
23 ministrator on the basis of the same ratio as appli-  
24 cable to funds allotted under subparagraph (E).  
25 None of the funds reallocated by the Administrator

1       pursuant to this paragraph shall be allotted to a  
2       State unless the State has met the requirements of  
3       subsection (f) of section 1442 (relating to operator  
4       certification).

5               “(2) USE OF FUNDS.—Except as otherwise au-  
6       thorized by this title, amounts deposited in such re-  
7       volving funds, including loan repayments and inter-  
8       est earned on such amounts, shall be used only for  
9       providing loans, loan guarantees, or as a source of  
10      reserve and security for leveraged loans, the pro-  
11      ceeds of which are deposited in a State revolving  
12      fund established under paragraph (1), or other fi-  
13      nancial assistance authorized under this section to  
14      community water systems and nonprofit noncommu-  
15      nity water systems, other than systems owned by  
16      Federal agencies. Such financial assistance may be  
17      used by a public water system only for expenditures  
18      (not including monitoring, operation, and mainte-  
19      nance expenditures) of a type or category which the  
20      Administrator has determined, through guidance,  
21      will facilitate compliance with national primary  
22      drinking water regulations applicable to such system  
23      under section 1412 or otherwise significantly further  
24      the health protection objectives of this title. Such  
25      funds may also be used to provide loans to a system

1 referred to in section 1401(4)(B) for the purpose of  
2 providing the treatment described in section  
3 1401(4)(B)(i)(III). Such funds shall not be used for  
4 the acquisition of real property or interests therein,  
5 unless such acquisition is integral to a project au-  
6 thorized by this paragraph and the purchase is from  
7 a willing seller. Of the amount credited to any re-  
8 volving fund established under this section in any  
9 fiscal year, 15 percent shall be available solely for  
10 providing loan assistance to public water systems  
11 which regularly serve fewer than 10,000 persons.

12 “(3) LIMITATION.—

13 “(A) IN GENERAL.—Except as provided in  
14 subparagraph (B), no assistance under this  
15 part shall be provided to a public water system  
16 that—

17 “(i) does not have the technical, man-  
18 agerial, and financial capability to ensure  
19 compliance with the requirements of this  
20 title; or

21 “(ii) is in significant noncompliance  
22 with any requirement of a national pri-  
23 mary drinking water regulation or vari-  
24 ance.



1           “(B) RESTRUCTURING.—A public water  
2           system described in subparagraph (A) may re-  
3           ceive assistance under this part if—

4                   “(i) the owner or operator of the sys-  
5                   tem agrees to undertake feasible and ap-  
6                   propriate changes in operations (including  
7                   ownership, management, accounting, rates,  
8                   maintenance, consolidation, alternative  
9                   water supply, or other procedures) if the  
10                  State determines that such measures are  
11                  necessary to ensure that the system has  
12                  the technical, managerial, and financial ca-  
13                  pability to comply with the requirements of  
14                  this title over the long term; and

15                   “(ii) the use of the assistance will en-  
16                  sure compliance.

17          “(b) INTENDED USE PLANS.—

18                  “(1) IN GENERAL.—After providing for public  
19                  review and comment, each State that has entered  
20                  into a capitalization agreement pursuant to this part  
21                  shall annually prepare a plan that identifies the in-  
22                  tended uses of the amounts available to the State  
23                  loan fund of the State.

24                  “(2) CONTENTS.—An intended use plan shall  
25                  include—

1           “(A) a list of the projects to be assisted in  
2           the first fiscal year that begins after the date  
3           of the plan, including a description of the  
4           project, the expected terms of financial assist-  
5           ance, and the size of the community served;

6           “(B) the criteria and methods established  
7           for the distribution of funds; and

8           “(C) a description of the financial status of  
9           the State loan fund and the short-term and  
10          long-term goals of the State loan fund.

11         “(3) USE OF FUNDS.—

12                 “(A) IN GENERAL.—An intended use plan  
13                 shall provide, to the maximum extent prac-  
14                 ticable, that priority for the use of funds be  
15                 given to projects that—

16                         “(i) address the most serious risk to  
17                         human health;

18                         “(ii) are necessary to ensure compli-  
19                         ance with the requirements of this title (in-  
20                         cluding requirements for filtration); and

21                         “(iii) assist systems most in need on  
22                         a per household basis according to State  
23                         affordability criteria.

24                 “(B) LIST OF PROJECTS.—Each State  
25                 shall, after notice and opportunity for public

1 comment, publish and periodically update a list  
2 of projects in the State that are eligible for as-  
3 sistance under this part, including the priority  
4 assigned to each project and, to the extent  
5 known, the expected funding schedule for each  
6 project.

7 “(c) FUND MANAGEMENT.—Each State revolving  
8 fund under this section shall be established, maintained,  
9 and credited with repayments and interest. The fund cor-  
10 pus shall be available in perpetuity for providing financial  
11 assistance under this section. To the extent amounts in  
12 each such fund are not required for current obligation or  
13 expenditure, such amounts shall be invested in interest  
14 bearing obligations of the State or of the United States.

15 “(d) ASSISTANCE FOR DISADVANTAGED COMMU-  
16 NITIES.—

17 “(1) LOAN SUBSIDY.—Notwithstanding any  
18 other provision of this section, in any case in which  
19 the State makes a loan pursuant to section (a)(2) to  
20 a disadvantaged community or to a community that  
21 the State expects to become a disadvantaged com-  
22 munity as the result of a proposed project, the State  
23 may provide additional subsidization (including for-  
24 giveness of principal).

1           “(2) TOTAL AMOUNT OF SUBSIDIES.—For each  
2           fiscal year, the total amount of loan subsidies made  
3           by a State pursuant to paragraph (1) may not ex-  
4           ceed 30 percent of the amount of the capitalization  
5           grant received by the State for the year.

6           “(3) DEFINITION OF DISADVANTAGED COMMU-  
7           NITY.—In this subsection, the term ‘disadvantaged  
8           community’ means the service area of a public water  
9           system that meets affordability criteria established  
10          after public review and comment by the State in  
11          which the public water system is located. The Ad-  
12          ministrator may publish information to assist States  
13          in establishing affordability criteria.

14          “(e) STATE CONTRIBUTION.—Each agreement under  
15          subsection (a) shall require that the State deposit in the  
16          State revolving fund from State moneys an amount equal  
17          to at least 20 percent of the total amount of the grant  
18          to be made to the State on or before the date on which  
19          the grant payment is made to the State, except that a  
20          State shall not be required to deposit such amount into  
21          the fund prior to the date on which each grant payment  
22          is made for fiscal years 1994, 1995, 1996, and 1997 if  
23          such State deposits the State contribution amount into the  
24          State fund prior to September 30, 1998.

1       “(f) COMBINED FINANCIAL ADMINISTRATION.—Not-  
2 withstanding subsection (c), a State may (as a convenience  
3 and to avoid unnecessary administrative costs) combine,  
4 in accordance with State law, the financial administration  
5 of a revolving fund established under this section with the  
6 financial administration of any other revolving fund estab-  
7 lished by the State if otherwise not prohibited by the law  
8 under which such revolving fund was established and if  
9 the Administrator determines that—

10           “(1) the grants under this section, together  
11 with loan repayments and interest, will be separately  
12 accounted for and used solely for the purposes speci-  
13 fied in subsection (a); and

14           “(2) the authority to establish assistance prior-  
15 ities and carry out oversight and related activities  
16 (other than financial administration) with respect to  
17 such assistance remains with the State agency hav-  
18 ing primary responsibility for administration of the  
19 State program under section 1413.

20       “(g) ADMINISTRATION.—(1) Each State may annu-  
21 ally use up to 4 percent of the funds allotted to the State  
22 under this section to cover the reasonable costs of adminis-  
23 tration of the programs under this section, including the  
24 recovery of reasonable costs expended to establish such a  
25 fund which are incurred after the date of enactment of

1 this section, and to provide technical assistance to public  
2 water systems within the State. For fiscal year 1995 and  
3 each fiscal year thereafter, each State with primary en-  
4 forcement responsibility for public water systems within  
5 that State may use up to an additional 10 percent of the  
6 funds allotted to the State under this section—

7           “(A) for public water system supervision pro-  
8           grams under section 1443(a);

9           “(B) to administer or provide technical assist-  
10          ance through source water protection programs;

11          “(C) to develop and implement a capacity devel-  
12          opment strategy under section 1419(c); and

13          “(D) for an operator certification program for  
14          purposes of meeting the requirements of section  
15          1442(f)

16 if the State matches such expenditures with at least an  
17 equal amount of State funds. At least half of such match  
18 must be additional to the amount expended by the State  
19 for public water supervision in fiscal year 1993. An addi-  
20 tional 1 percent of the funds annually allotted to the State  
21 under this section shall be used by each State to provide  
22 technical assistance to public water systems in such State.  
23 Funds utilized under section 1452(g)(1)(B) shall not be  
24 used for enforcement actions or for purposes which do not  
25 facilitate compliance with national primary drinking water

1 regulations or otherwise significantly further the health  
2 protection objectives of this title.

3 “(2) The Administrator shall publish such guidance  
4 and promulgate such regulations as may be necessary to  
5 carry out the provisions of this section, including—

6 “(A) provisions to ensure that each State com-  
7 mits and expends funds allotted to the State under  
8 this section as efficiently as possible in accordance  
9 with this title and applicable State laws,

10 “(B) guidance to prevent waste, fraud, and  
11 abuse, and

12 “(C) guidance to avoid the use of funds made  
13 available under this section to finance the expansion  
14 of any public water system in anticipation of future  
15 population growth.

16 Such guidance and regulations shall also insure that the  
17 States, and public water systems receiving assistance  
18 under this section, use accounting, audit, and fiscal proce-  
19 dures that conform to generally accepted accounting  
20 standards.

21 “(3) Each State administering a revolving fund and  
22 assistance program under this subsection shall publish and  
23 submit to the Administrator a report every 2 years on its  
24 activities under this subsection, including the findings of  
25 the most recent audit of the fund and the entire State

1 allotment. The Administrator shall periodically audit all  
2 revolving funds established by, and all other amounts al-  
3 lotted to, the States pursuant to this subsection in accord-  
4 ance with procedures established by the Comptroller Gen-  
5 eral.

6 “(h) NEEDS SURVEY.—The Administrator shall con-  
7 duct an assessment of water system capital improvements  
8 needs of all eligible public water systems in the United  
9 States and submit a report to the Congress containing the  
10 results of such assessment within 180 days after the date  
11 of the enactment of the Safe Drinking Water Act Amend-  
12 ments of 1996 and every 4 years thereafter.

13 “(i) INDIAN TRIBES.—1½ percent of the amounts  
14 appropriated annually to carry out this section may be  
15 used by the Administrator to make grants to Indian  
16 Tribes and Alaskan Native Villages which are not other-  
17 wise eligible to receive either grants from the Adminis-  
18 trator under this section or assistance from State revolv-  
19 ing funds established under this section. Such grants may  
20 only be used for expenditures by such tribes and villages  
21 for public water system expenditures referred to in sub-  
22 section (a)(2).

23 “(j) OTHER AREAS.—Of the funds annually available  
24 under this section for grants to States, the Administrator  
25 shall make allotments in accordance with section



1 1443(a)(4) for the District of Columbia, the Virgin Is-  
2 lands, the Commonwealth of the Northern Mariana Is-  
3 lands, American Samoa, Guam, and the Republic of  
4 Palau. The grants allotted as provided in this subsection  
5 may be provided by the Administrator to the governments  
6 of such areas, to public water systems in such areas, or  
7 to both, to be used for the public water system expendi-  
8 tures referred to in subsection (a)(2). Such grants shall  
9 not be deposited in revolving funds. The total allotment  
10 of grants under this section for all areas described in this  
11 paragraph in any fiscal year shall not exceed 1 percent  
12 of the aggregate amount made available to carry out this  
13 section in that fiscal year.

14 “(k) SET-ASIDES.—

15 “(1) IN GENERAL.—Notwithstanding subsection  
16 (a)(2), a State may take each of the following ac-  
17 tions:

18 “(A) Provide assistance, only in the form  
19 of a loan to one or both of the following:

20 “(i) Any public water system de-  
21 scribed in subsection (a)(2) to acquire land  
22 or a conservation easement from a willing  
23 seller or grantor, if the purpose of the ac-  
24 quisition is to protect the source water of  
25 the system from contamination and to en-

1           sure compliance with national primary  
2           drinking water regulations.

3           “(ii) Any community water system to  
4           implement local, voluntary source water  
5           protection measures to protect source  
6           water in areas delineated pursuant to sec-  
7           tion 1428(l), in order to facilitate compli-  
8           ance with national primary drinking water  
9           regulations applicable to such system  
10          under section 1412 or otherwise signifi-  
11          cantly further the health protection objec-  
12          tives of this title. Funds authorized under  
13          this clause may be used to fund only vol-  
14          untary, incentive-based mechanisms.

15          “(B) Provide assistance, including tech-  
16          nical and financial assistance, to any public  
17          water system as part of a capacity development  
18          strategy developed and implemented in accord-  
19          ance with section 1419(c).

20          “(C) Make expenditures from the capital-  
21          ization grant of the State for fiscal years 1996  
22          and 1997 to delineate and assess source water  
23          protection areas in accordance with section  
24          1428(l), except that funds set aside for such ex-

1           penditure shall be obligated within 4 fiscal  
2           years.

3           “(D) Make expenditures from the fund for  
4           the establishment and implementation of well-  
5           head protection programs under section 1428.

6           “(2) LIMITATION.—For each fiscal year, the  
7           total amount of assistance provided and expendi-  
8           tures made by a State under this subsection may not  
9           exceed 15 percent of the amount of the capitaliza-  
10          tion grant received by the State for that year and  
11          may not exceed 10 percent of that amount for any  
12          one of the following activities:

13               “(A) To acquire land or conservation ease-  
14               ments pursuant to paragraph (1)(A)(i).

15               “(B) To provide funding to implement vol-  
16               untary, incentive-based source water quality  
17               protection measures pursuant to paragraph  
18               (1)(A)(ii).

19               “(C) To provide assistance through a ca-  
20               pacity development strategy pursuant to para-  
21               graph (1)(B).

22               “(D) To make expenditures to delineate or  
23               assess source water protection areas pursuant  
24               to paragraph (1)(C).

1           “(E) To make expenditures to establish  
2           and implement wellhead protection programs  
3           pursuant to paragraph (1)(D).

4           “(3) STATUTORY CONSTRUCTION.—Nothing in  
5           this section creates or conveys any new authority to  
6           a State, political subdivision of a State, or commu-  
7           nity water system for any new regulatory measure,  
8           or limits any authority of a State, political subdivi-  
9           sion of a State or community water system.

10          “(l) SAVINGS.—The failure or inability of any public  
11          water system to receive funds under this section or any  
12          other loan or grant program, or any delay in obtaining  
13          the funds, shall not alter the obligation of the system to  
14          comply in a timely manner with all applicable drinking  
15          water standards and requirements of this title.

16          “(m) AUTHORIZATION OF APPROPRIATIONS.—There  
17          is authorized to be appropriated to carry out the purposes  
18          of this section \$599,000,000 for the fiscal year 1994 and  
19          \$1,000,000,000 for each of the fiscal years 1995 through  
20          2003. Sums shall remain available until expended.

21          “(n) HEALTH EFFECTS STUDIES.—From funds ap-  
22          propriated pursuant to this section for each fiscal year,  
23          the Administrator shall reserve \$10,000,000 for health ef-  
24          fects studies on drinking water contaminants authorized  
25          by section 1442. In allocating funds made available under

1 this subsection, the Administrator shall give priority to  
2 studies concerning the health effects of cryptosporidium,  
3 disinfection byproducts, and arsenic, and the implementa-  
4 tion of a plan for studies of subpopulations at greater risk  
5 of adverse effects.

6       “(o) DEMONSTRATION PROJECT FOR STATE OF VIR-  
7 GINIA.—Notwithstanding the other provisions of this sub-  
8 section limiting the use of funds deposited in a State re-  
9 volving fund from any State allotment, the State of Vir-  
10 ginia may, as a single demonstration and with the ap-  
11 proval of the Virginia General Assembly and the Adminis-  
12 trator, conduct a program to demonstrate alternative ap-  
13 proaches to intergovernmental coordination to assist in the  
14 financing of new drinking water facilities in the following  
15 rural communities in southwestern Virginia where none  
16 exists on the date of the enactment of the Safe Drinking  
17 Water Act Amendments of 1996 and where such commu-  
18 nities are experiencing economic hardship: Lee County,  
19 Wise County, Scott County, Dickenson County, Russell  
20 County, Buchanan County, Tazewell County, and the city  
21 of Norton, Virginia. The funds allotted to that State and  
22 deposited in the State revolving fund may be loaned to  
23 a regional endowment fund for the purpose set forth in  
24 this paragraph under a plan to be approved by the Admin-

1    istrator. The plan may include an advisory group that in-  
 2    cludes representatives of such counties.

3           “(p) SMALL SYSTEM TECHNICAL ASSISTANCE.—The  
 4    Administrator may reserve up to 2 percent of the total  
 5    funds appropriated pursuant to subsection (m) for each  
 6    of the fiscal years 1997 through 2003 to carry out the  
 7    provisions of section 1442(e), relating to technical assist-  
 8    ance for small systems.”.

9    **SEC. 309. WATER CONSERVATION PLAN.**

10       Part E is amended by adding at the end the follow-  
 11    ing:

12    **“SEC. 1453. WATER CONSERVATION PLAN.**

13           “(a) GUIDELINES.—Not later than 2 years after the  
 14    date of the enactment of the Safe Drinking Water Act  
 15    Amendments of 1996, the Administrator shall publish in  
 16    the Federal Register guidelines for water conservation  
 17    plans for public water systems serving fewer than 3,300  
 18    persons, public water systems serving between 3,300 and  
 19    10,000 persons, and public water systems serving more  
 20    than 10,000 persons, taking into consideration such fac-  
 21    tors as water availability and climate.

22           “(b) SRF LOANS OR GRANTS.—Within 1 year after  
 23    publication of the guidelines under subsection (a), a State  
 24    exercising primary enforcement responsibility for public  
 25    water systems may require a public water system, as a

1 condition of receiving a loan or grant from a State revolving  
 2 fund under section 1452, to submit with its application  
 3 for such loan or grant a water conservation plan consistent  
 4 with such guidelines.”.

## 5 **TITLE IV—MISCELLANEOUS**

### 6 **SEC. 401. DEFINITIONS.**

7 (a) ALTERNATIVE QUALITY CONTROL AND TESTING  
 8 PROCEDURES.—Section 1401(1)(D) (42 U.S.C.  
 9 300f(1)(D)) is amended by adding the following at the end  
 10 thereof: “At any time after promulgation of a regulation  
 11 referred to in this paragraph, the Administrator may add  
 12 equally effective quality control and testing procedures by  
 13 guidance published in the Federal Register. Such proce-  
 14 dures shall be treated as an alternative for public water  
 15 systems to the quality control and testing procedures list-  
 16 ed in the regulation.”.

17 (b) PUBLIC WATER SYSTEM.—

18 (1) IN GENERAL.—Section 1401(4) (42 U.S.C.  
 19 300f(4)) is amended—

20 (A) in the first sentence, by striking  
 21 “piped water for human consumption” and in-  
 22 serting “water for human consumption through  
 23 pipes or other constructed conveyances”;

24 (B) by redesignating subparagraphs (A)  
 25 and (B) as clauses (i) and (ii), respectively;

1 (C) by striking “(4) The” and inserting  
2 the following:

3 “(4) PUBLIC WATER SYSTEM.—

4 “(A) IN GENERAL.—The”; and

5 (D) by adding at the end the following:

6 “(B) CONNECTIONS.—

7 “(i) IN GENERAL.—For purposes of  
8 subparagraph (A), a connection to a sys-  
9 tem that delivers water by a constructed  
10 conveyance other than a pipe shall not be  
11 considered a connection, if—

12 “(I) the water is used exclusively  
13 for purposes other than residential  
14 uses (consisting of drinking, bathing,  
15 and cooking, or other similar uses);

16 “(II) the Administrator or the  
17 State (in the case of a State exercis-  
18 ing primary enforcement responsibility  
19 for public water systems) determines  
20 that alternative water to achieve the  
21 equivalent level of public health pro-  
22 tection provided by the applicable na-  
23 tional primary drinking water regula-  
24 tion is provided for residential or simi-



1           lar uses for drinking, cooking, and  
2           bathing; or

3                   “(III) the Administrator or the  
4           State (in the case of a State exercising  
5           primary enforcement responsibility  
6           for public water systems) determines  
7           that the water provided for residential  
8           or similar uses for drinking, cooking,  
9           and bathing is centrally treated or  
10          treated at the point of entry by the  
11          provider, a pass-through entity, or the  
12          user to achieve the equivalent level of  
13          protection provided by the applicable  
14          national primary drinking water regulations.  
15

16                   “(ii) IRRIGATION DISTRICTS.—An irrigation  
17          district in existence prior to May  
18          18, 1994, that provides primarily agricultural  
19          service through a piped water system  
20          with only incidental residential or similar  
21          use shall not be considered to be a public  
22          water system if the system or the residential  
23          or similar users of the system comply  
24          with subclause (II) or (III) of clause (i).

1           “(C) TRANSITION PERIOD.—A water sup-  
2           plier that would be a public water system only  
3           as a result of modifications made to this para-  
4           graph by the Safe Drinking Water Act Amend-  
5           ments of 1995 shall not be considered a public  
6           water system for purposes of the Act until the  
7           date that is two years after the date of enact-  
8           ment of this subparagraph. If a water supplier  
9           does not serve 15 service connections (as de-  
10          fined in subparagraphs (A) and (B)) or 25 peo-  
11          ple at any time after the conclusion of the two-  
12          year period, the water supplier shall not be con-  
13          sidered a public water system.”.

14          (2) GAO STUDY.—The Comptroller General of  
15          the United States shall undertake a study to—

16                (A) ascertain the numbers and locations of  
17                individuals and households relying for their res-  
18                idential water needs, including drinking, bath-  
19                ing, and cooking (or other similar uses) on irri-  
20                gation water systems, mining water systems, in-  
21                dustrial water systems or other water systems  
22                covered by section 1401(4)(B) of the Safe  
23                Drinking Water Act that are not public water  
24                systems subject to the Safe Drinking Water  
25                Act;

1 (B) determine the sources and costs and  
2 affordability (to users and systems) of water  
3 used by such populations for their residential  
4 water needs; and

5 (C) review State and water system compli-  
6 ance with the exclusion provisions of section  
7 1401(4)(B) of such Act.

8 The Comptroller General shall submit a report to  
9 the Congress within 3 years after the enactment of  
10 this Act containing the results of such study.

11 **SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

12 (a) GENERAL.—Part A (42 U.S.C. 300f) is amended  
13 by adding the following new section after section 1401:

14 **“SEC. 1402. AUTHORIZATION OF APPROPRIATIONS.**

15 “There are authorized to be appropriated such sums  
16 as may be necessary to carry out the provisions of this  
17 title for the first 7 fiscal years following the enactment  
18 of the Safe Drinking Water Act Amendments of 1996.”.

19 (b) CRITICAL AQUIFER PROTECTION.—Section 1427  
20 (42 U.S.C. 300h–6) is amended as follows:

21 (1) Subsection (b)(1) is amended by striking  
22 “not later than 24 months after the enactment of  
23 the Safe Drinking Water Act Amendments of  
24 1986”.

1           (2) The table in subsection (m) is amended by  
2           adding at the end the following:

“1992–2003 ..... 15,000,000.”.

3           (c) WELLHEAD PROTECTION AREAS.—The table in  
4           section 1428(k) (42 U.S.C. 300h–7(k)) is amended by  
5           adding at the end the following:

“1992–2003 ..... 30,000,000.”.

6           (d) UNDERGROUND INJECTION CONTROL GRANT.—  
7           The table in section 1443(b)(5) (42 U.S.C. 300j–2(b)(5))  
8           is amended by adding at the end the following:

“1992–2003 ..... 15,000,000.”.

9           **SEC. 403. NEW YORK CITY WATERSHED PROTECTION PRO-**  
10           **GRAM.**

11           Section 1443 (42 U.S.C. 300j–2) is amended by add-  
12           ing at the end the following:

13           “(d) NEW YORK CITY WATERSHED PROTECTION  
14           PROGRAM.—

15           “(1) IN GENERAL.—The Administrator is au-  
16           thorized to provide financial assistance to the State  
17           of New York for demonstration projects imple-  
18           mented as part of the watershed program for the  
19           protection and enhancement of the quality of source  
20           waters of the New York City water supply system.  
21           Demonstration projects which shall be eligible for fi-  
22           nancial assistance shall be certified to the Adminis-  
23           trator by the State of New York as satisfying the

1 purposes of this subsection and shall include those  
2 projects that demonstrate, assess, or provide for  
3 comprehensive monitoring, surveillance, and analysis  
4 with respect to the efficacy of phosphorus offsets or  
5 trading, wastewater diversion, septic system siting  
6 and maintenance, innovative or enhanced wastewater  
7 treatment technologies, innovative methodologies for  
8 the control of storm water runoff, urban, agricul-  
9 tural, and forestry best management practices for  
10 controlling nonpoint source pollution, operator train-  
11 ing, compliance surveillance and that establish wa-  
12 tershed or basin-wide coordinating, planning or gov-  
13 erning organizations. In certifying projects to the  
14 Administrator, the State of New York shall give pri-  
15 ority to these monitoring projects that have under-  
16 gone peer review.

17 “(2) REPORT.—Not later than 5 years after the  
18 date on which the Administrator first provides as-  
19 sistance pursuant to this paragraph, the Governor of  
20 the State of New York shall submit a report to the  
21 Administrator on the results of projects assisted.

22 “(3) MATCHING REQUIREMENTS.—Federal as-  
23 sistance provided under this subsection shall not ex-  
24 ceed 35 percent of the total cost of the protection

1       program being carried out for any particular water-  
2       shed or ground water recharge area.

3               “(4) AUTHORIZATION.—There are authorized to  
4       be appropriated to the Administrator such sums as  
5       are necessary to carry out this subsection for each  
6       of fiscal years 1997 through 2003 including  
7       \$15,000,000 for each of such fiscal years for the  
8       purpose of providing assistance to the State of New  
9       York to carry out paragraph (2).”.

10 **SEC. 404. ESTROGENIC SUBSTANCES SCREENING PRO-**  
11 **GRAM.**

12       Part F is amended by adding the following at the  
13 end thereof:

14 **“SEC. 1470. ESTROGENIC SUBSTANCES SCREENING PRO-**  
15 **GRAM.**

16       “(a) DEVELOPMENT.—Not later than 2 years after  
17 the date of enactment of this section, the Administrator  
18 shall develop a screening program, using appropriate vali-  
19 dated test systems and other scientifically relevant infor-  
20 mation, to determine whether certain substances may have  
21 an effect in humans that is similar to an effect produced  
22 by a naturally occurring estrogen, or such other endocrine  
23 effect as the Administrator may designate.

24       “(b) IMPLEMENTATION.—Not later than 3 years  
25 after the date of enactment of this section, after obtaining

1 public comment and review of the screening program de-  
2 scribed in subsection (a) by the scientific advisory panel  
3 established under section 25(d) of the Act of June 25,  
4 1947 (chapter 125) or the Science Advisory Board estab-  
5 lished by section 8 of the Environmental Research, Devel-  
6 opment, and Demonstration Act of 1978 (42 U.S.C.  
7 4365), the Administrator shall implement the program.

8 “(c) SUBSTANCES.—In carrying out the screening  
9 program described in subsection (a), the Administrator—

10 “(1) shall provide for the testing of all active  
11 and inert ingredients used in products described in  
12 section 103(e) of the Comprehensive Environmental  
13 Response, Compensation, and Liability Act of 1980  
14 (42 U.S.C. 9603(e)) that may be found in sources  
15 of drinking water, and

16 “(2) may provide for the testing of any other  
17 substance that may be found in sources of drinking  
18 water if the Administrator determines that a sub-  
19 stantial population may be exposed to such sub-  
20 stance.

21 “(d) EXEMPTION.—Notwithstanding subsection (c),  
22 the Administrator may, by order, exempt from the require-  
23 ments of this section a biologic substance or other sub-  
24 stance if the Administrator determines that the substance

1 is anticipated not to produce any effect in humans similar  
2 to an effect produced by a naturally occurring estrogen.

3 “(e) COLLECTION OF INFORMATION.—

4 “(1) IN GENERAL.—The Administrator shall  
5 issue an order to a person that registers, manufac-  
6 tures, or imports a substance for which testing is re-  
7 quired under this subsection to conduct testing in  
8 accordance with the screening program described in  
9 subsection (a), and submit information obtained  
10 from the testing to the Administrator, within a rea-  
11 sonable time period that the Administrator deter-  
12 mines is sufficient for the generation of the informa-  
13 tion.

14 “(2) PROCEDURES.—To the extent practicable  
15 the Administrator shall minimize duplicative testing  
16 of the same substance for the same endocrine effect,  
17 develop, as appropriate, procedures for fair and eq-  
18 uitable sharing of test costs, and develop, as nec-  
19 essary, procedures for handling of confidential busi-  
20 ness information.

21 “(3) FAILURE OF REGISTRANTS TO SUBMIT IN-  
22 FORMATION.—

23 “(A) SUSPENSION.—If a person required  
24 to register a substance referred to in subsection  
25 (c)(1) fails to comply with an order under para-



graph (1) of this subsection, the Administrator shall issue a notice of intent to suspend the sale or distribution of the substance by the person. Any suspension proposed under this paragraph shall become final at the end of the 30-day period beginning on the date that the person receives the notice of intent to suspend, unless during that period a person adversely affected by the notice requests a hearing or the Administrator determines that the person referred to in paragraph (1) has complied fully with this subsection.

“(B) HEARING.—If a person requests a hearing under subparagraph (A), the hearing shall be conducted in accordance with section 554 of title 5, United States Code. The only matter for resolution at the hearing shall be whether the person has failed to comply with an order under paragraph (1) of this subsection. A decision by the Administrator after completion of a hearing shall be considered to be a final agency action.

“(C) TERMINATION OF SUSPENSIONS.—The Administrator shall terminate a suspension under this paragraph issued with respect to a

1 person if the Administrator determines that the  
2 person has complied fully with this subsection.

3 “(4) NONCOMPLIANCE BY OTHER PERSONS.—

4 Any person (other than a person referred to in para-  
5 graph (3)) who fails to comply with an order under  
6 paragraph (1) shall be liable for the same penalties  
7 and sanctions as are provided under section 16 of  
8 the Toxic Substances Control Act (15 U.S.C. 2601  
9 and following) in the case a violation referred to in  
10 that section. Such penalties and sanctions shall be  
11 assessed and imposed in the same manner as pro-  
12 vided in such section 16.

13 “(f) AGENCY ACTION.—In the case of any substance  
14 that is found, as a result of testing and evaluation under  
15 this section, to have an endocrine effect on humans, the  
16 Administrator shall, as appropriate, take action under  
17 such statutory authority as is available to the Adminis-  
18 trator, including consideration under other sections of this  
19 Act, as is necessary to ensure the protection of public  
20 health.

21 “(g) REPORT TO CONGRESS.—Not later than 4 years  
22 after the date of enactment of this section, the Adminis-  
23 trator shall prepare and submit to Congress a report con-  
24 taining—

1           “(1) the findings of the Administrator resulting  
2           from the screening program described in subsection  
3           (a);

4           “(2) recommendations for further testing need-  
5           ed to evaluate the impact on human health of the  
6           substances tested under the screening program; and

7           “(3) recommendations for any further actions  
8           (including any action described in subsection (f))  
9           that the Administrator determines are appropriate  
10          based on the findings.

11          “(h) SAVINGS CLAUSE.—Nothing in this section shall  
12          be construed to amend or modify the provisions of the  
13          Toxic Substances Control Act or the Federal Insecticide,  
14          Fungicide, and Rodenticide Act.”.

15   **SEC. 405. REPORTS ON PROGRAMS ADMINISTERED DI-**  
16                   **RECTLY BY ENVIRONMENTAL PROTECTION**  
17                   **AGENCY.**

18          For States and Indian Tribes in which the Adminis-  
19          trator of the Environmental Protection Agency has re-  
20          voked primary enforcement responsibility under part B of  
21          title XIV of the Public Health Service Act (which title is  
22          commonly known as the Safe Drinking Water Act) or is  
23          otherwise administering such title, the Administrator shall  
24          provide every 2 years, a report to Congress on the imple-

1 mentation by the Administrator of all applicable require-  
2 ments of that title in such States.

3 **SEC. 406. RETURN FLOWS.**

4 Section 3013 of Public Law 102–486 (42 U.S.C.  
5 13551) shall not apply to drinking water supplied by a  
6 public water system regulated under title XIV of the Pub-  
7 lic Health Service Act (the Safe Drinking Water Act).

8 **SEC. 407. EMERGENCY POWERS.**

9 Section 1431(b) is amended by striking out “\$5,000”  
10 and inserting in lieu thereof “\$15,000”.

11 **SEC. 408. WATERBORNE DISEASE OCCURRENCE STUDY.**

12 (a) SYSTEM.—The Director of the Centers for Dis-  
13 ease Control and Prevention, and the Administrator of the  
14 Environmental Protection Agency, shall jointly establish—

15 (1) within 2 years after the date of enactment  
16 of this Act, pilot waterborne disease occurrence stud-  
17 ies for at least 5 major United States communities  
18 or public water systems; and

19 (2) within 5 years after the date of enactment  
20 of this Act, a report on the findings of the pilot  
21 studies, and a national estimate of waterborne dis-  
22 ease occurrence.

23 (b) TRAINING AND EDUCATION.—The Director and  
24 Administrator shall jointly establish a national health care  
25 provider training and public education campaign to inform

1 both the professional health care provider community and  
2 the general public about waterborne disease and the symp-  
3 toms that may be caused by infectious agents, including  
4 microbial contaminants. In developing such a campaign,  
5 they shall seek comment from interested groups and indi-  
6 viduals, including scientists, physicians, State and local  
7 governments, environmental groups, public water systems,  
8 and vulnerable populations.

9 (c) FUNDING.—The Administrator may use not more  
10 than \$2,000,000 of the funds from amounts reserved  
11 under section 1452(n) for health effects studies for pur-  
12 poses of this section and may transfer a portion of such  
13 funds to the Centers for Disease Control and Prevention  
14 for such purposes. There are authorized to be appro-  
15 priated such additional sums as may be necessary to carry  
16 out this section.

17 **SEC. 409. DRINKING WATER STUDIES.**

18 (a) SUBPOPULATIONS AT GREATER RISK.—The Ad-  
19 ministrator of the Environmental Protection Agency shall  
20 conduct a continuing program of studies to identify groups  
21 within the general population that are at greater risk than  
22 the general population of adverse health effects from expo-  
23 sure to contaminants in drinking water. The study shall  
24 examine whether and to what degree infants, children,  
25 pregnant women, the elderly, individuals with a history of

1 serious illness, or other subpopulations that can be identi-  
2 fied and characterized are likely to experience elevated  
3 health risks, including risks of cancer, from contaminants  
4 in drinking water.

5 (b) BIOLOGICAL MECHANISMS.—The Administrator  
6 shall conduct studies to—

7 (1) understand the biomedical mechanisms by  
8 which chemical contaminants are absorbed, distrib-  
9 uted, metabolized, and eliminated from the human  
10 body, so as to develop more accurate physiologically  
11 based models of the phenomena;

12 (2) understand the effects of contaminants and  
13 the biomedical mechanisms by which the contami-  
14 nants cause adverse effects (especially noncancer  
15 and infectious effects) and the variations in the ef-  
16 fects among humans, especially subpopulations at  
17 greater risk of adverse effects, and between test ani-  
18 mals and humans; and

19 (3) develop new approaches to the study of  
20 complex mixtures, such as mixtures found in drink-  
21 ing water, especially to determine the prospects for  
22 synergistic or antagonistic interactions that may af-  
23 fect the shape of the dose-response relationship of  
24 the individual chemicals and microbes, and to exam-

1       ine noncancer endpoints and infectious diseases, and  
2       susceptible individuals and subpopulations.

3       (c) STUDIES ON HARMFUL SUBSTANCES IN DRINK-  
4       ING WATER.—

5           (1) DEVELOPMENT OF STUDIES.—The Admin-  
6       istrator shall, after consultation with the Secretary  
7       of Health and Human Services, the Secretary of Ag-  
8       riculture, and, as appropriate, the heads of other  
9       Federal agencies, conduct the studies described in  
10      paragraph (2) to support the development and im-  
11      plementation of the most current version of each of  
12      the following:

13           (A) Enhanced surface water treatment rule  
14           (59 Fed. Reg. 38832 (July 29, 1994)).

15           (B) Disinfectant and disinfection byprod-  
16           ucts rule (59 Fed. Reg. 38668 (July 29,  
17           1994)).

18           (C) Ground water disinfection rule (avail-  
19           ability of draft summary announced at (57 Fed.  
20           Reg. 33960 (July 31, 1992)).

21       (2) CONTENTS OF STUDIES.—

22           (A) IN GENERAL.—The studies required by  
23       paragraph (1) shall include, at a minimum,  
24       each of the following:

1 (i) An identification and characteriza-  
2 tion of new disinfection byproducts associ-  
3 ated with the use of different disinfectants.

4 (ii) Toxicological studies and, if war-  
5 ranted, epidemiological studies to deter-  
6 mine what levels of exposure from dis-  
7 infectants and disinfection byproducts, if  
8 any, may be associated with developmental  
9 and birth defects and other potential toxic  
10 end points.

11 (iii) Toxicological studies and, if war-  
12 ranted, epidemiological studies to quantify  
13 the carcinogenic potential from exposure to  
14 disinfection byproducts resulting from dif-  
15 ferent disinfectants.

16 (iv) The development of practical ana-  
17 lytical methods for detecting and enumer-  
18 ating microbial contaminants, including  
19 giardia, cryptosporidium, and viruses.

20 (v) The development of reliable, effi-  
21 cient, and economical methods to deter-  
22 mine the viability of individual  
23 cryptosporidium oocysts.



1 (vi) The development of dose-response  
2 curves for pathogens, including  
3 cryptosporidium and the Norwalk virus.

4 (vii) The development of indicators  
5 that define treatment effectiveness for  
6 pathogens and disinfection byproducts.

7 (viii) Bench, pilot, and full-scale stud-  
8 ies and demonstration projects to evaluate  
9 optimized conventional treatment, ozone,  
10 granular activated carbon, and membrane  
11 technology for controlling pathogens (in-  
12 cluding cryptosporidium) and disinfection  
13 byproducts.

14 (B) RISK DEFINITION STRATEGY.—The  
15 studies under this subsection shall include a  
16 strategy for determining the risks and esti-  
17 mated extent of disease resulting from patho-  
18 gens, disinfectants, and disinfection byproducts  
19 in drinking water, and the costs and removal ef-  
20 ficiencies associated with various control meth-  
21 ods for pathogens, disinfectants, and disinfec-  
22 tion byproducts.

23 (3) AUTHORIZATION OF APPROPRIATIONS.—  
24 There are authorized to be appropriated to carry out

1       this subsection \$12,500,000 for each of fiscal years  
2       1997 through 2003.

3   **SEC. 410. BOTTLED DRINKING WATER STANDARDS.**

4       Section 410 of the Federal Food, Drug, and Cosmetic  
5   Act (21 U.S.C. 349) is amended as follows:

6           (1) By striking “Whenever” and inserting “(a)  
7       Except as provided in subsection (b), whenever”.

8           (2) By adding at the end thereof the following  
9       new subsection:

10       “(b)(1) Not later than 180 days before the effective  
11   date of a national primary drinking water regulation pro-  
12   mulgated by the Administrator of the Environmental Pro-  
13   tection Agency for a contaminant under section 1412 of  
14   the Public Health Service Act (42 U.S.C. 300g–1), the  
15   Secretary shall promulgate a standard of quality regula-  
16   tion under this subsection for that contaminant in bottled  
17   water or make a finding that such a regulation is not nec-  
18   essary to protect the public health because the contami-  
19   nant is contained in water in public water systems (as de-  
20   fined under section 1401(4) of such Act (42 U.S.C.  
21   300f(4)) but not in water used for bottled drinking water.  
22   The effective date for any such standard of quality regula-  
23   tion shall be the same as the effective date for such na-  
24   tional primary drinking water regulation, except for any  
25   standard of quality of regulation promulgated by the Sec-

1   retary before the date of enactment of the Safe Drinking  
2   Water Act Amendments of 1996 for which (as of such date  
3   of enactment) an effective date had not been established.  
4   In the case of a standard of quality regulation to which  
5   such exception applies, the Secretary shall promulgate  
6   monitoring requirements for the contaminants covered by  
7   the regulation not later than 2 years after such date of  
8   enactment. Such monitoring requirements shall become ef-  
9   fective not later than 180 days after the date on which  
10  the monitoring requirements are promulgated.

11       “(2) A regulation issued by the Secretary as provided  
12  in this subsection shall include any monitoring require-  
13  ments that the Secretary determines appropriate for bot-  
14  tled water.

15       “(3) A regulation issued by the Secretary as provided  
16  in this subsection shall require the following:

17           “(A) In the case of contaminants for which a  
18       maximum contaminant level is established in a na-  
19       tional primary drinking water regulation under sec-  
20       tion 1412 of the Public Health Service Act, the reg-  
21       ulation under this subsection shall establish a maxi-  
22       mum contaminant level for the contaminant in bot-  
23       tled water which is no less stringent than the maxi-  
24       mum contaminant level provided in the national pri-  
25       mary drinking water regulation.

1           “(B) In the case of contaminants for which a  
2           treatment technique is established in a national pri-  
3           mary drinking water regulation under section 1412  
4           of the Public Health Service Act, the regulation  
5           under this subsection shall require that bottled water  
6           be subject to requirements no less protective of the  
7           public health than those applicable to water provided  
8           by public water systems using the treatment tech-  
9           nique required by the national primary drinking  
10          water regulation.

11          “(4)(A) If the Secretary does not promulgate a regu-  
12          lation under this subsection within the period described  
13          in paragraph (1), the national primary drinking water reg-  
14          ulation referred to in paragraph (1) shall be considered,  
15          as of the date on which the Secretary is required to estab-  
16          lish a regulation under paragraph (1), as the regulation  
17          applicable under this subsection to bottled water.

18          “(B) In the case of a national primary drinking water  
19          regulation that pursuant to subparagraph (A) is consid-  
20          ered to be a standard of quality regulation, the Secretary  
21          shall, not later than the applicable date referred to in such  
22          subparagraph, publish in the Federal Register a notice—

23                  “(i) specifying the contents of such regulation,  
24                  including monitoring requirements, and

1           “(ii) providing that for purposes of this para-  
2       graph the effective date for such regulation is the  
3       same as the effective date for the regulation for pur-  
4       poses of title XIV of the Public Health Service Act  
5       (or, if the exception under paragraph (1) applies to  
6       the regulation, that the effective date for the regula-  
7       tion is 2 years and 180 days after the date of the  
8       enactment of the Safe Drinking Water Act Amend-  
9       ments of 1996).”.

10 **SEC. 411. CLERICAL AMENDMENTS.**

11       (a) PART B.—Part B (42 U.S.C. 300g and following)  
12 is amended as follows:

13           (1) In section 1412(b)(2)(C) by striking “para-  
14       graph (3)(a)” and inserting “paragraph (3)(A)”.

15           (2) In section 1415(a)(1)(A) by inserting “the”  
16       before “time the variance is granted”.

17       (b) PART C.—Part C (42 U.S.C. 300h and following)  
18 is amended as follows:

19           (1) In section 1421(b)(3)(B)(i) by striking  
20       “number or States” and inserting “number of  
21       States”.

22           (2) In section 1427(k) by striking “this sub-  
23       section” and inserting “this section”.

24       (c) PART E.—Section 1441(f) (42 U.S.C. 300j(f)) is  
25 amended by inserting a period at the end.

1 (d) SECTION 1465(b).—Section 1465(b) (42 U.S.C.  
 2 300j–25) is amended by striking “as by” and inserting  
 3 “by”.

4 (e) SHORT TITLE.—Section 1 of Public Law 93–523  
 5 (88 Stat. 1600) is amended by inserting “of 1974” after  
 6 “Act” and title XIV of the Public Health Service Act is  
 7 amended by inserting the following immediately before  
 8 part A:

9 **“SEC. 1400. SHORT TITLE AND TABLE OF CONTENTS.**

10 “(a) SHORT TITLE.—This title may be cited as the  
 11 “Safe Drinking Water Act”.

12 “(b) TABLE OF CONTENTS.—

“TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

“Sec. 1400. Short title and table of contents.

“PART A—DEFINITIONS

“Sec. 1401. Definitions.

“Sec. 1402. Authorization of appropriations.

“PART B—PUBLIC WATER SYSTEMS

“Sec. 1411. Coverage.

“Sec. 1412. National drinking water regulations.

“Sec. 1413. State primary enforcement responsibility.

“Sec. 1414. Enforcement of drinking water regulations.

“Sec. 1415. Variances.

“Sec. 1416. Exemptions.

“Sec. 1417. Prohibition on use of lead pipes, solder, and flux.

“Sec. 1418. Monitoring of contaminants.

“PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

“Sec. 1421. Regulations for State programs.

“Sec. 1422. State primary enforcement responsibility.

“Sec. 1423. Enforcement of program.

“Sec. 1424. Interim regulation of underground injections.

“Sec. 1425. Optional demonstration by States relating to oil or natural gas.

“Sec. 1426. Regulation of State programs.

“Sec. 1427. Sole source aquifer demonstration program.

“Sec. 1428. State programs to establish wellhead protection areas.

“Sec. 1429. Federal facilities.

## “PART D—EMERGENCY POWERS

- “Sec. 1431. Emergency powers.
- “Sec. 1432. Tampering with public water systems.

## “PART E—GENERAL PROVISIONS

- “Sec. 1441. Assurance of availability of adequate supplies of chemicals necessary for treatment of water.
- “Sec. 1442. Research, technical assistance, information, training of personnel.
- “Sec. 1443. Grants for State programs.
- “Sec. 1444. Special study and demonstration project grants; guaranteed loans.
- “Sec. 1445. Records and inspections.
- “Sec. 1446. National Drinking Water Advisory Council.
- “Sec. 1447. Federal agencies.
- “Sec. 1448. Judicial review.
- “Sec. 1449. Citizen’s civil action.
- “Sec. 1450. General provisions.
- “Sec. 1451. Indian tribes.
- “Sec. 1452. State revolving funds.

“PART F—ADDITIONAL REQUIREMENTS TO REGULATE THE SAFETY OF  
DRINKING WATER

- “Sec. 1461. Definitions.
- “Sec. 1462. Recall of drinking water coolers with lead-lined tanks.
- “Sec. 1463. Drinking water coolers containing lead.
- “Sec. 1464. Lead contamination in school drinking water.
- “Sec. 1465. Federal assistance for State programs regarding lead contamination in school drinking water.”.

